JULY 1, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Evans was on vacation July 1st and 2nd.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-049

The Board of County Commissioners signed Resolution No. 93-049, a Resolution of Intent to Create RSID No. 8454 for the purpose of constructing a sanitary sewer main extension to serve Block 1 of Maclay Addition, Missoula County, as per the terms set forth, setting the hearing date for July 21, 1993, at 1:30 p.m.

Resolution No. 93-050

The Board of County Commissioners signed Resolution No. 93-050, a Resolution of Intent to Create RSID No. 8452 for the purpose of constructing a sewer collection system for a portion of Linda Vista 3rd Supplement, Missoula County, as per the terms set forth, setting the hearing date for July 21, 1993, at 1:30 p.m.

Interlocal Agreement

The Board of County Commissioners signed an Interlocal Agreement Establishing the Urban Transportation District Board Membership for the purpose of allowing the local governing bodies to determine the number of Urban Transportation District Board Members, the terms of office, the selection of initial Board members, and the procedure for filling vacancies on the Board, as per the items set forth in the Agreement.

The Commissioners then appointed Beryl Stover to serve until the first Monday in January of 1995, and Kent Nelson to serve until the first Monday in January of 1997, as the two initially authorized County appointees on the Urban Transportation District Board.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JULY 2, 1993

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

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending June 30, 1993.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

JULY 5, 1993

The Courthouse was closed for the Independence Day holiday.

JULY 6, 1993

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

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ending June 18, 1993.

JULY 6, 1993 (CONT.)

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending June 30, 1993.

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Radio Shack as principal for warrant #16444, dated 10-05-92, on the School District #40 Claims Fund in the amount of $99.95 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Easement

The Board of County Commissioners signed an Easement from Missoula County to the Linda Vista Water Company to be used for underground water utilities, as per the terms set forth, and described on the Exhibits attached to the Easement.

Contract

The Board of County Commissioners signed a Contract for Nutrition Services between Missoula County and the Western Montana Comprehensive Development Center for contracted nutritionist services, as per the provisions and terms set forth, for the period beginning October 1, 1993, through June 30, 1994, for a total payment not to exceed $403.00.

Easement

The Board of County Commissioners signed an Easement from Missoula County to T.C.I. Cablevision of Montana, Inc. granting an easement and right-of-way across, along and under property described as Lot 21, Block 8, Hillview Heights No. 6, a subdivision in the southeast quarter of Section 7, T. 12 N., R. 19 W., PMM, Missoula County, and more particularly described in the Easement. The Easement was returned to T.C.I. Cablevision.

Memorandum of Understanding

The Board of County Commissioners signed a Memorandum of Understanding between Missoula County and the Federation of Missoula County Employees regarding substantive changes in Article 30 - Longevity agreed to during negotiations for the Collective Bargaining Agreement of July 1, 1993, to June 30, 1994, as per the items set forth in the Memorandum of Understanding. The document was returned to John Pemberton, Personnel Director.

Other items included:

> A discussion was held regarding Department Head Salaries, and the Commissioners approved a COLA, the same as the elected officials.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

Site Inspection

In the afternoon, Chair Dussault accompanied County Surveyor Horace Brown on a site inspection of Old Cochise Drive for the petition to vacate a portion of the Drive.

JULY 7, 1993

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

Audit List

Commissioners Evans and Hart signed the Audit list dated July 7, 1993, pages 2-15, with a grand total of $51,259.75. The Audit List was returned to the Accounting Department.

JULY 7, 1993 (CONT.)

DAILY ADMINISTRATIVE MEETING

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

Agreement

The Board of County Commissioners signed an Agreement for Professional Engineering Services between Missoula County and Druyvestein, Johnson & Anderson for sewer improvements for a portion of Linda Vista Third Supplement (RSID No. 8452), as per the items and terms set forth, for a total payment of $16,000.00. The Agreement was returned to Jesse Sattley, RSID Coordinator, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Acting Chairman Barbara Evans. Also present was Commissioner Fern Hart.

Russ Johnston withdrew his application for a family transfer on property located in Grant Creek. Instead, he will submit a summary subdivision.

DECISION ON: PETITION TO VACATE A PORTION OF OLD COCHISE DRIVE

A public hearing was held at last week's Public Meeting on this request. Ann Mary Dussault and Horace Brown inspected the property in question on Tuesday, July 6, 1993.

Horace Brown, County Surveyor, explained that the road is blocked by a guardrail and isn't used any longer as an access to Highway 93. He didn't see any reason it shouldn't be vacated; however, he recommended that the Commissioners specify that the State right-of-way should not be vacated. The right-of-way is 60 feet wide along Cochise Drive.

Michael Sehestedt, Deputy County Attorney, recommended that the motion be phrased to state, 'vacate portion of Cochise Drive from whatever start point to end point, being 60 feet in width, less any portion thereof included within the State right-of-way.

Hank Powers submitted a map which showed the area requested to be vacated.

Fern Hart moved and Barbara Evans seconded the motion to vacate Cochise Drive, located in Section 10 and 15, T13N, R20W, M.P.M., Missoula County, Montana from guardrail off Highway 93 to 30 feet off new Cochise Drive, excluding the State right-of-way as shown on the submitted map. The motion carried on a vote of 2-0.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER (TOWER) PROPERTY DESCRIBED AT BOOK 76 PAGE 1350

Marnie McClain, Deputy County Attorney, explained that Tom McCarthy of WGM Group submitted a request for a family transfer exemption for property described at Book 76 Page 1350. This is a three acre parcel located in the Upper Miller Creek area. The applicant proposes to create two 1.5 acre parcels for transfer to two children, ages 19 and 21.

The history of the parcel is as follows: Douglas and Teresa Tower acquired an 8.365 acre parent parcel in 1976. They used a security interest exemption to create a two acre parcel for their home. Thereafter, in August 1976, October 1976 and August 1979, Douglas and Teresa Tower used the occasional sale exemption to create three parcels. Douglas and Teresa Tower also used the boundary relocation exemption in 1978.

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

The hearing was opened to public comment.

Tom McCarthy explained the family background; Douglas Tower was widowed when his wife, Teresa passed away a year ago. The Towers originally bought the property in 1967. The last exemption used by the Towers was used over 17 years ago. He explained the exemptions used by the Towers in the past. Mr. Tower wishes to split the three acre parcel in half and give the parcels to his two children. Mr. Towers is a Forest Service employee; he is not a developer and is not involved in any land divisions or developments. Mr. Towers also executed an affidavit which stated that he understood he used his one time transfer per county, per family member; this was notarized.

Fern Hart asked about the access to the proposed split of land.

JULY 7, 1993 (CONT.)

Tom McCarthy explained there is a road which has been there for quite some time. The road is gravel and serves two homes within an adjacent subdivision. The road is not dedicated County right-of-way. This road will be used for the proposed split. This has always been used to access the back of the property.

There being no further comment, the hearing was closed to public comment.

Fern Hart moved and Barbara Evans seconded the motion to approve the request for a family transfer exemption for property described at Book 76 Page 1350 for Douglas Tower, contingent upon the requirement that the deeds be provided at the time the Certificate of Survey is offered for filing, and based upon the finding that the request does not appear to attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

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

JULY 8, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Agreement

Chair Dussault signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences (DHES) for the purpose of providing the services of the USDA's Special Supplemental Food Program for Women, Infants, and Children (WIC) to the residents of Missoula and Mineral Counties, as per the items and terms set forth, from July 1, 1993, through June 30, 1994, for total payments under this Agreement not to exceed $229,530.00. The Agreement was forwarded to DHES in Helena.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JULY 9, 1993

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

Monthly Report

Chair Dussault examined, approved, and ordered filed an Amended Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending June 30, 1993.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

JULY 12, 1993

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

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Laura M. Wolfe as principal for warrant #212015, dated June 28, 1993, on the Missoula County Payroll Fund in the amount of $101.23 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

JULY 12, 1993 (CONT.)

Certifications of Acceptance

Chair Dussault signed the following Certifications of Acceptance (three) for County Maintenance for the following roads:

1) Triple Creek Drive, Road No. L-917, located in Sections 27 and 34, T. 13 N., R. 20 W., within O'Brien Creek Meadows No. 1, with the limit of acceptance being .162 miles;

2) Mesa Court, Road No. L-919, located in Section 34, T. 13 N., R. 20 W., within O'Brien Creek Meadows No. 1, with the limit of acceptance being .092 miles; and

3) Double Tree Lane, Road No. L-918, located in Section 34, T. 13 N., R. 20 W., within O'Brien Creek Meadows No. 1, with the limit of acceptance being .265 miles.

The Certifications were returned to the Surveyor's Office.

Extension Letter

The Board of County Commissioners signed a letter to Dick Ainsworth of PCI approving a 180-day filing extension for King Ranch Phase I, making the new filing deadline February 19, 1994.

Lease Agreement

The Board of County Commissioners signed a Lease Agreement between Missoula County and Missoula Aging Services for the lease of approximately 136 square feet more or less, located in or near the stairwell of the first floor of the Missoula County Courthouse Annex (RSVP Deli Space), commencing July 1, 1993, through June 30, 1995, as per the terms set forth, for rental in the amount of $1.00 per year.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JULY 13, 1993

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

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Report of Sheriff Doug Chase showing the items of fees and other collections on account of civil business in Missoula County for month ending June 30, 1993.

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #13, pay date of 6/25/93, with a total Missoula County payroll of $445,410.32. The Transmittal Sheet was returned to the Auditor's Office.

Professional Services Contract

Chair Dussault signed a Professional Services Contract between Missoula County and Sonju's Office Management, an independent contractor, for the purpose of secretarial, clerical and administrative duties requested by the Seeley Lake Community Council, as per the items and terms set forth, commencing July 1, 1993, through June 30, 1994, for payment at the rate of $10.50 per hour.

Resolution No. 93-052

The Board of County Commissioners signed Resolution No. 93-052, a re-signing of Resolution No. 93-050 dated July 1, 1993, a Resolution of Intention to Create RSID No. 8452 for the purpose of constructing a sewer collection system for a portion of Linda Vista 3rd Supplement, Missoula County, as per the items and terms set forth.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JULY 14, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Agreement

Chair Dussault signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences for the purpose of providing local sanitary review of minor subdivisions, as per the covenants and stipulations set forth, for the period from July 1, 1993, through June 30, 1994, with the County to be paid quarterly by DHES the fees set out in the most current version of rule 16.16.804 of the Administrative Rules of Montana for the subdivisions it reviews. The Agreement was forwarded to DHES in Helena.

Resolution No. 93-053

The Board of County Commissioners signed Resolution No. 93-053, a resolution vacating a portion of Cochise Drive from 30 feet north of the approximate center of the access road to a 150 foot offset line from the centerline of Highway #93, located in the SW 1/4 of Section 10, T. 12 N., R. 20 W., PMM, Missoula County.

Right-of-Way Easement

Chair Dussault signed a Pipeline Right-of-Way Easement from Missoula County to Montana Power Company for an easement 15 feet in width within a park area in the El Dorado Subdivision upon which to construct, operate, maintain, replace and remove a pipeline and necessary appurtenances over, under, along and across certain real property located in the SE 1/4 of Section 13, NE 1/4 of Section 24, T. 13 N., R. 19 W., PMM, Missoula County. The Easement was forwarded to Montana Power Company in Butte for further handling.

Acceptance of Grant Award

Chair Dussault signed acceptance of a grant award to Missoula County from the Board of Crime Control for 1993 Victim Assistance funds in the amount of $60,384.00 in Federal funds, for the period from July 1, 1993, through June 30, 1994, as per the conditions set forth. The document was returned to Cindy Klette, Grants Coordinator, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 by Acting Chairman Barbara Evans. Also present was Commissioner Fern Hart. Chair Ann Mary Dussault joined the meeting shortly after it began.

BID AWARD: CRS-2 EMULSIFIED ASPHALT OIL (SURVEYOR)

Horace Brown, County Surveyor, explained that bids were opened Monday, July 6, 1993 at 10:00 a.m. for 210 tons of CRS-2 emulsified asphalt oil, with the following results:

Montana Refining Company	$27,412.84 *
Jennco Materials	$28,696.00
Idaho Asphalt Supply, Inc.	$35,133.00
City Service, Inc.	$33,180.00

* (Actual bid of $26,800.20 plus additional demurrage costs of $612.64 added to the bid.)

The staff recommended that the bid be awarded to Montana Refining Company in the amount of $27,412.84, as the lowest and best bid. The budgeted amount for CRS-2 emulsified asphalt oil was $48,300 for fiscal year 1993-94.

Fern Hart moved and Barbara Evans seconded the motion to award the bid to Montana Refining Company in the amount of $27,412.84 for CRS-2 asphalt oil as the lowest and best bidder. The motion carried on a vote of 3-0.

DECISION ON: REQUEST TO VACATE A PORTION OF DEEP CREEK ROAD (POSTPONED FROM JUNE 30TH)

Michael Sehestedt, Deputy County Attorney, explained there is a road up Deep Creek which either is or is not a County road. A petition was received which was signed by the requisite number of persons to abandon the road. A public hearing was conducted on June 16th with public testimony; the decision was set for the 30th of June; Fern

Hart and Horace Brown, County Surveyor viewed the road on June 28th; and the final decision was postponed until July 14th.

Barbara Evans referred to a letter from the Forest Service written by Orville Daniels in which he stated: "At a meeting that was held on June 16th, Commissioner Barbara Evans requested that all parties involved get together and work out a solution. We contacted all of the involved parties which included Champion, Plum Creek, State of Montana, Zane Sullivan, the Ammons' attorney; Chris Swartley, attorney for the Gallaghers; and the Campbell family, who own land up there. The solution which was proposed was for the Gallaghers and the Ammons to grant a right-of-way easement to the Forest Service. The Forest Service would make the road a part of the National Forest transportation system which would provide for administrative vehicular access, product removal and non-motorized access for the public with the gate remaining in its current location."

Barbara Evans said Mr. Daniels erroneously stated that the County should vacate the road; the public lands would then have walk-in access and all landowners would have access. In her discussions with Horace Brown, he indicated that his recommendation would be to keep the road open to non-motorized walk-in traffic and not vacate the road. If the road right-of-way was vacated, this would give the Forest Service nothing to administer.

Horace Brown said the jurisdiction of the road could be turned over to the Forest Service; there are many roads in the County which are under the jurisdiction of the Forest Service; the County has the right-of-way. He stated that this process works well.

Ron Hawk, representative of the Forest Service, explained that the magnet to the area is dispersed recreation, which is walk-in access for the public, vehicular administrative use for the landowners in the area and product removal such as logging.

Barbara Evans asked if there was any interest in logging the area by any of the landowners?

Ron Hawk said he knew only what has been stated previously during the past meetings.

Barbara Evans said it has been 20-50 years since product has been removed.

Barbara Evans moved and Fern Hart seconded the motion to request the County Surveyor to turn over the jurisdiction of Deep Creek Road to the Forest Service based on the letter from Orville Daniels of the Forest Service dated July 8, 1993. This accomplishes the following: 1) access for the landowners; and 2) limits public access to walk-in traffic thus minimizing damage to the land. The Forest Service shall be requested to post the area with informative signage to let the public know this is a recreation area open to the public, but closed to vehicular traffic. The motion carried on a vote of 2-1 with Ann Mary Dussault voting against the motion.

Fern Hart asked if this motion included the recognition by the Commissioners that there are easements held by the landowners?

Barbara Evans said the agreement would allow the landowners access to their lands past the locked gate; this would allow only walk-in public access.

Ann Mary Dussault stated it was her understanding that this area could be logged and the road would be used for carrying logs in the event this would occur.

Michael Sehestedt said the previous motion did not dispose of the petition to vacate Deep Creek Road. He suggested that the Commissioners continue the hearing on the vacation for one month pending the outcome of the negotiations between the Forest Service and the County Surveyor. If this agreement isn't entered into, then the matter will be in limbo again. If at the end of a month's time, the agreement has been made, the Commissioners can deny the petition to vacate.

Horace Brown stated that this was fine; he has already had conversations with the Forest Service who indicated they were agreeable to doing this.

Barbara Evans agreed with the suggestions made by Michael Sehestedt and asked that during this month when Horace Brown negotiates with the Forest Service, that he try to ameliorate some of Ann Mary's concerns such as the logging.

Ann Mary Dussault stated her concerns could not be ameliorated. She stated it was her belief that a road did not exist. This action will create access to an area that did not previously have access, which is unfortunate. The decision on the vacation of Deep Creek Road will be continued for one month until the Public Meeting on August 18th for the purpose of negotiations between the County Surveyor and the Forest Service.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER (FORDER) PROPERTY DESCRIBED AT BOOK 38 MICRO PAGE 1293

Marnie McClain, Deputy County Attorney, explained that Andy Fisher of Eli and Associates submitted a request for a family transfer exemption on behalf of Dwayne D. Forder for property described at Book 38 Micro Page 1293. This is an approximately 113 acre parcel located near Condon. The applicant proposes to create a 15+ acre parcel for transfer to his mother. The affidavit says the intended use of the property is "eventual residential; R.M. Forder."

The history of the parcel is as follows: the applicant originally acquired a 218 acre parcel in 1972. In 1977, he filed COS 1359, which created a 100 acre parcel. In 1984, the applicant used the agricultural covenant exemption to create an approximately four acre parcel. In 1988, the applicant used the boundary relocation exemption.

According to the records kept by the Missoula County Surveyor's Office, the applicant has used the exemptions described above.

The hearing was opened to public comment.

Dwayne Forder explained there was a problem with an easement so he relocated the boundary to eliminate the problems with the easement. He said he currently resides on the property. He intends to transfer the deeds and the title to the property to his mother, who may or may not sell the parcel in question. He explained the access road to the proposed parcel.

Marnie McClain brought up the issue of the Comp Plan; the surrounding parcels are quite large and used for agricultural purposes.

Dwayne Forder explained that the parcel will be irregular in shape due to an irrigation ditch.

A discussion ensued relative to the criteria for family transfer exemptions. It was explained that at the time Mr. Forder files the Certificate of Survey, the deed and title must be transferred to the applicant's mother. It was concluded that an individual could transfer one parcel once to each of his family members who qualify, per county. Transfer exemptions can only take place from parent to child; child to parent; or to a spouse. These family members must qualify for the exemption.

There being no further testimony, the hearing was closed to public comment.

Barbara Evans moved and Fern Hart seconded the motion to grant the request for a family transfer exemption for Dwayne D. Forder for property described at Book 38 Micro Page 1293, based on the finding that the request does not appear to evade the Montana Subdivision and Platting Act and subject to the requirement that deeds be provided at the time the Certificate of Survey is offered for filing. The motion carried on a vote of 3-0.

OTHER: CONCERNED PERSONS FOR SAFER DITCHES

Judy Pratt, representative for the newly formed group, Concerned Persons for Safer Ditches, expressed her group's concerns about the ditches in the Missoula area. She gave a history of the 22 drownings in the Missoula ditches over the past 43 years. Recently, Jake Killingsworth, 18 months old, drowned in a ditch. Of the 22 persons who drowned, 3 were adults and 19 were children, most under the age of 2 1/2 years; 13 of the toddlers drowned on the same two mile stretch. Another child is now physically challenged due to falling into a ditch in Missoula. The Waumsleys tried to fence their yard twice, but were told to take the fence down.

She explained that the group wanted to fence the two miles of irrigation ditch which would cost $107,700, fully installed. This money could be raised.

She stated that a rally was scheduled for August 4th at 7:00 p.m. at Franklin Park adjacent to a portion of the irrigation ditch.

Curtis Killingsworth, whose son drowned in the ditch five weeks ago, asked the Commissioners for support to fence the ditches. Fences will not keep everyone out, but it will stop the babies and toddlers from gaining access. They do not the water to be cut off, but just want the ditches to be safer for the children.

Lana Killingsworth asked about the taxes being assessed for the ditches; what services are being performed from the taxes collected? People are supposed to be cleaning the ditches.

Barbara Evans asked if the assessment was a perpetual assessment on all the property owners in the district?

Curtis Killingsworth explained that everyone who lives along the ditch pays $15.00 a year whether they use the water or not. The assessment is collected by the County for the ditch companies.

Judy Pratt asked how the ditch board operated; are the members elected; what powers does the board have?

Barbara Evans explained there is a board with elected members. The ditch riders go down the ditches and clean them of debris. Years ago, Ray Tipp was the attorney representing the board.

Michael Sehestedt, Deputy County Attorney, said Ray Tipp is the secretary of the board as well as the board's attorney; the secretary can be either a member of the board or someone employed by the board. There is no record available in the courthouse which states who the members of the board are. The Legislature set the irrigation districts up as a totally independent governmental organization. The County, if asked, has the obligation to conduct an election for them. When they certify to the County their list of assessments, the County also has the obligation to collect the assessments. The County has no authority over the ditch company. The ditch companies are a public governmental entity created under special legislation by the State Legislature. It is an independent local entity that has the sole purpose of providing irrigation water to the lands within the district. They're responsible to the electorate within the irrigation district. Every person owning property within the district has at least one vote; larger property owners have more than one vote in terms of electing members to the board. The tax monies go to the districts. He did not have the specific assessment amounts collected for the districts. The irrigation district's budgets are not subject to the County's review or approval. The Legislature probably will not look at the budget directly. Any citizen has the right to look at any and all books, records and papers.

Judy Pratt said many people have tried to look at these documents, but the districts have been very uncooperative.

Michael Sehestedt described the legal means available to people if the district does not give them access to the documents. The courts exist to compel people to do their legal duty.

Barbara Evans suggested that since Ray Tipp has been ill, to call and ask to speak with Rich Buley, who is his business partner.

Michael Sehestedt referred to the Statutes, concerning the districts immunities: "An irrigation district, private person or entity owning or operating an irrigation ditch, shall keep the ditches in good repair and condition, but not for the purpose of protecting persons or property from injury or damage. The district has no duty to erect fences or install grates or other protective devices where a ditch goes underground or under a bridge or other object or prevent access to ditches and animals." "An irrigation district, private person or an entity owning an irrigation ditch is not liable to personal injury or property damage resulting from flood waters caused by rain fall or other weather conditions, for personal injury, damage, property to person, or from death of a drowning unless the irrigation district or private person or entity was grossly negligent or engaged in willful or wanton misconduct." The districts pretty much have absolute immunity. One mechanism available for erecting safety devices on an irrigation ditch would be the RSID district. This would allow the legal authorization for the County to undertake something like this. An RSID is paid for by assessment on the benefited property owners. The statutes provide specifically that the person owning the irrigation ditch cannot be assessed any part of the cost of erecting these particular safety devices; it would fall on the other adjoining landowners to pay for this. This is the only point in the codes where the County has specific authorization to take action. There is authorization under the Special Improvement District statutes which would allow the County to create a district to put those in place. This necessitates assessing the cost against the adjoining property owners. He listed some legal questions and concerns relative to the creation of the RSID.

Curtis Killingsworth stated the idea was to fence the areas which are public and outside of private yards and open to school children. Fencing only the areas that have public access would cost much less than the projected $107,700. This would allow the water to continue running, but would protect the children. The proposed fence would be four feet high. A day care operator experimented with a 2- and 4-year old and their ability to scale a four foot fence. The 2-year old was able to climb the fence, but got his feet stuck in the holes, and couldn't get over the fence. The 4-year old could make it to the top, but didn't go over due to the barbs along the top of the fence. Children over four years of age should know better than to climb the fence; the group is more worried about the babies who don't know any better. The fences will not stop the water, but it will stop the babies.

Mr. Waumsley said he resides on South and Garfield; he built a fence between an existing fence which didn't block the ditch. The City told him to remove the fence from City property; the fence was removed for him. He built another fence which was taken down as well; he was told he could be incarcerated for building on City property. He stated he contacted Ray Tipp who denied even talking with him about the ditches. He has a 10-year boy who has the mind of a 3-year old; his son fell into the irrigation ditch and was revived on the way to the hospital.

Barbara Evans asked if the group was able to come up with the money to fence the ditch along with the required right-of-way, could the ditch company prevent the group from fencing the ditch?

Michael Sehestedt said if anything is put up in the ditch company's right-of-way, they could say it impairs their ability to maintain the ditch. Historically, anything that is done around the ditches that has even the potential of inconveniencing the irrigation district, provokes serious objections that they are interfering with their legal right to use their ditch easement as they see fit. He didn't know whether or not there was a grant of authority to condemn for these properties. He said the ditch company can own the property in fee simple; another form of ownership is an easement interest in which fee to the property is owned by an adjoining property owner, but is subject to the

burden of an easement which cannot be used in any manner that is inconsistent with that easement. Big Flat Irrigation District property is almost all held in fee for their main ditch.

A discussion ensued relative to the location of the fence along the ditch; would it be located just where school children would be, or would it located all along the ditch? MRA has $85,000 which could possibly be available for research purposes to find out where high populations of kids are. The group proposes to fill in the areas that are unfenced now. Anywhere fence was put up, gates would be installed for access for the ditch companies. Money for the gates was not included in the cost of the installed fence.

Flo Chessen wondered how many people actually used the ditches; most of the area is developed. Could there be any laws which would separate the City need and the County need? It is criminal that the irrigation district doesn't have respect for human life.

Michael Sehestedt said the bulk of the people in the district who are assessed don't have practical access to the water. The County tried to introduce legislation to provide an easy way out of the district. This bill did not survive. The absolute immunity bill was adopted by the Legislature in 1987. The districts know the city has grown over the top of the ditches and view this as a problem of the people that have moved into these areas. The Legislature has taken the position that this is a problem for those people to address; their moving next to the ditches shouldn't be allowed to burden those people who benefit from them.

Judy Pratt said in the past, different neighborhoods have been successful in getting the ditches in their areas drained and filled in.

Michael Sehestedt said there are two categories of ditches: 1) ditches that belong to the irrigation district; and 2) lateral ditches which provide water to individuals or groups of users. He suspected that it was a lateral ditch that was filled in.

Judy Pratt spoke about a woman in Billings who had success relative to their ditch problems.

Michael Sehestedt said the issue of use is another question; most people who pay assessments for the irrigation districts have no use for the water. The ditches are a subsidy for a relatively small number of people. One way to solve the problem is the 60% protest petition.

Judy Pratt spoke about an idea by the League of Women Voters: the ditch board has five elected members; if the group could get a majority of their members elected to the board, then they could have some say in the workings of the district.

Michael Sehestedt explained that three people would have to be found that would want to run and take the oath of office to obey all laws. He said proposing to elect a board to do things that aren't permitted by the law is probably futile. He said the group needs to go to the State Legislature to change the law.

Barbara Evans suggested that the group obtain a map of the district, along with the names of the district. If 60% of the landowners in the district protest the district, the district could be dissolved. In any case, this action could provide enough impetus for the board to recognize and listen to the problems concerning the residents. The petition may give the group the numbers needed to get the results they want.

Fern Hart said only those folks who own land in the district who vote can run for an elected board position.

Ann Mary Dussault said one way to change things is by getting involved. Being a member of a board gives a person the ability within the law to change certain things or the ability to go to the Legislature and change the law. Clearly, agriculture is a protected industry in Montana. This is one example where agriculture is protected and exempted from a lot of liability and responsibility. The majority of Legislators represent agricultural communities. One strategy would be to work with Legislators that represent areas that have districts running through them to get the laws changed. The group should also get people involved and run for the positions on the board. This will take much time.

A discussion ensued relative to legal representation for the group. It was concluded that the County legal staff could answer questions and give legal opinions, but could not represent them. As a matter of State Statute, Michael Sehestedt is prohibited from representing any one other than Missoula County.

OTHER: WESTVIEW PARK RESIDENTS

Dick Herbeau, resident of Westview Park, commented about a meeting where Ann Mary Dussault and the Sheriff was invited. He stated that if the taxpaying and voting residents of this park couldn't have more police protection, they could certainly change this situation at election time.

Ann Mary Dussault commented that the meeting referred to likely centered around the issue of law enforcement to private roads within the mobile home park. Because these roads are private, there are limitations to what the

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Sheriff's Department could do relative to enforcing certain laws when they are private roads versus public roads. She stated that because the roads within this park are private, changing people at election time isn't going to change the status of those roads.

Bruce Winther, resident of the Westview Trailer Park, said he has talked with two of the Commissioners relative to rent stabilization in Missoula County; both have responded that the County Commissioners do not have the authority to change the situation. He stated that according to information he received, the Commissioners have the authority in a catch-all law granted to them by the State to pass any law which would protect the interests, well-being, health or safety of the residents within that county. He said because there are many people who are about ready to move out into the streets due to the rent situation, the County should have the authority because this law would affect the safety, health and well-being of the constituents in this County. He wondered if the Commissioners were afraid to exercise their authority, or is it a personal vendetta against mobile home owners and poor people that have to rent?

Ann Mary Dussault stated that the County does not have that authority. She stated she resented the implication that Missoula County has vendettas against anyone. Missoula County has in the past, and will continue to work in a positive way on these issues and that the County would work with the Missoula County Legislative Delegation to look at this issue. The Commissioners were the first governmental body to endorse Good Cause legislation.

Michael Sehestedt said Counties are limited jurisdiction governments who have the ability to adopt ordinances only as specifically delegated by the State of Montana. Counties do not have general catch-all legislative authority. A county must find a specific legislative authorization. The County couldn't regulate dogs until the Legislature specifically passed legislation saying counties were authorized to license and regulate dogs running at large. The Legislature hasn't given counties authority to adopt rent stabilization ordinances. It has never been delegated to counties. If people think local governments should have this type of authority, then they need to ask the Legislature to empower local governments to grant them the authority to adopt these kinds of regulations.

There being no further business to come before the Board, the Commissioners were in recess at 2:55 p.m.

JULY 15, 1993

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

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Molly Garrick as principal for warrant #17032, dated 6-25-93, on the School District #1 Payroll Fund in the amount of $278.52 now unable to be found.

Audit List

Commissioners Evans and Hart signed the Audit List dated 7-13-93, pages 2-23, with a grand total of $121,269.20. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Contract and Memorandum of Agreement

Chair Dussault signed a Contract (No. 94-021-2012) from the State of Montana Department of Family Services for the purpose of providing funds to Missoula County with which family based services and other services for emotionally disturbed youth can be purchased by the County according to priorities established in the Missoula Plan for Services to Emotionally Disturbed Children, beginning on July 1, 1993, through June 30, 1994, with the total sum paid for services being $40,000.00, as per the terms and conditions set forth. The Board of County Commissioners then signed Attachment "A", a Memorandum of Agreement between the Department of Family Services and Missoula County, whereby DFS resolves to provide the sum of $40,000.00 from State General Funds to Missoula County for the purpose of purchasing a maximum of $40,000 in family-based services from Friends to Youth, as per the terms and conditions set forth, through June 30, 1994. The documents were returned to Cindy Klette, Grants Coordinator, for further handling.

Notice of Hearing - Interim Zoning/Billboards

Chair Dussault signed a Notice of Hearing on the proposal to adopt Interim Zoning for a district described as the entire area of Missoula County excluding those areas of Missoula County which are already zoned or which are within the Missoula City limits, and within this zone the proposed zoning regulations would with limited exceptions prohibit the erection of off premises signs, setting the hearing for August 4, 1993, at 7:00 p.m.

JULY 15, 1993 (CONT.)

Notice of Informational Hearing

Chair Dussault signed a Notice of Informational Hearing to collect testimony commenting on the new proposed state model subdivision regulations, on possible changes to the existing Missoula County subdivision regulations and on the procedure and time line to be followed in meeting the October 1, 1993, deadline for adoption of subdivision regulations which conform to the requirements of HB408 as adopted by the 1993 legislature, setting the hearing for July 28, 1993, at 1:30 p.m.

Other items included:

1) the Commissioners appointed Jean Belangie-Nye as a member of the Lolo Mosquito Control Board through December 31, 1995; and

2) as per a request from Wendy Cromwell, Clerk & Recorder/Treasurer, the Commissioners authorized a refund in the amount of $15.00 to Kenneth Wennemak, whose 1981 motor vehicle was valued erroneously as a 1983 vehicle for his 1992 renewal.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JULY 16, 1993

The Board of County Commissioners met in regular session in the afternoon; a quorum of the Board was present. Commissioner Hart attended a Mental Health Board Meeting at Fort Missoula during the day, and Commissioner Evans was out of the office until noon.

Bonds - Bond Inventory Supply

As per a request from First Bank National Association, as trustee for the County of Missoula, Montana Industrial Development Revenue Bond, Series 1981 (Pay 'N Save Corporation Project), Chair Dussault signed twelve blank bonds to replenish the bond inventory supply. The bond stock was forwarded to First Trust National Association in St. Paul, MN.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

JULY 19, 1993

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

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Teresa Neumann Torgerson as principal for warrant #47063, dated 7-9-93, on the Missoula County Clerk of Court Trust Fund in the amount of $300.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and DeNeve and Kahl Concrete of Florence, MT, an independent contractor, for the purpose of pouring and finishing a concrete slab at the Art Museum, as per the terms set forth, commencing on July 13, 1993, and concluding on July 31, 1993, for a total payment upon completion of $1,155.00.

Contract

The Board of County Commissioners signed a Contract between the City-County Health Department and Missoula Indian Alcohol and Drug Services for the purpose of coordinating comprehensive alcohol services including outpatient care, preventive public education services, emergency care and consultation to residents of Missoula County, as per the items and terms set forth, for the period from July 1, 1993, through June 30, 1994, for a total

JULY 19, 1993 (CONT.)

payment up to $9,504.00 based on actual funds received. The Contract was returned to the Health Department for further signatures and handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Kenneth Fremont-Smith, an independent contractor, for the purpose of acting as HIV medical advisor for the Health Department and provide the services set forth in the Contract, commencing July 1, 1993, through June 1, 1994, as per the fee schedule set forth. The Contract was returned to the Health Department for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JULY 20, 1993

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Dussault left at noon for Stanley, Idaho to attend the Ecotrust and Northwest Policy Center Middle Fork 1993 Conference through July 26, 1993.

JULY 21, 1993

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

Audit List

Commissioners Evans and Hart signed the Audit List, dated 7-21-93, pages 2-35, with a grand total of $180,339.93. The Audit List was returned to the Accounting Department.

Plat

The Board of County Commissioners signed the Plat for Lower Lolo Addition, an amended subdivision plat of Lot 5, Block 2, Allomont Orchards, a recorded subdivision of Missoula County, located within the NE 1/4 of Section 35, T. 12 N., R. 20 W., PMM, a gross area of 8 acres, with the owners of record being Ted and Mary Bergsieker. Cash in lieu of park land was received by the Missoula County Treasurer in the amount of $3,100.00.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Acting Chairman Barbara Evans. Also present was Commissioner Fern Hart.

HEARING: RANGITSCH ADDITION NO. 4 (PRELIMINARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that Rangitsch Addition No. 4 is a proposed 11-lot subdivision located in the Target Range area on the south side of Sundown Road, just east of Humble Road, to the north of McCauley's Butte. The parent parcel covers 12.86 acres and the proposed lots are approximately one acre in size. An additional 11.43-acre lot, bordering the western boundary of this subdivision, is proposed to be developed into ten residential lots within two to three years as Rangitsch Addition No. 5, which will connect with Rangitsch Addition No. 4. Ringo Drive will access Sundown Road to serve the subdivision internally and will temporarily dead end with a turnaround. At the time Rangitsch Addition No. 5 is developed, Ringo Drive will continue and access Humble Road. This parcel and the surrounding lands are zoned C-RR1 which calls for a maximum residential density of one dwelling unit per acre. The Missoula Urban Comprehensive Plan, 1990 update, has designated a density of two dwelling units per acre. The proposed lots will be on individual septic and water systems. Gregory Martinsen is representing the developer, Robert and Helen Rangitsch.

The Community Development staff recommended that Rangitsch Addition No. 4 be approved, subject to compliance with all agency review requirements and the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. All driveways shall be paved. Such provision shall be made in the covenants or at the time of construction. Driveway and turnaround plans shall be subject to the approval of the County Surveyor and the Missoula Rural Fire Chief.

4. The area of land shown on the plat above 3136 feet in elevation shall be declared a no-build/ no-excavation zone and shall be shown on the plat as such. Specifically, this includes areas south of the present location of the irrigation ditch as shown on the plat.

5. Lots 6 and 7 shall have a one foot no access strip shown on the north boundary of the lots and both shall access Ringo Drive.

6. Grading, drainage, erosional control, and street plans for Sundown Road and Ringo Drive shall be provided for review and approved by the County Surveyor and the Missoula Rural Fire Chief prior to plat filing. On advice from the County Health Department, a grassy swale treatment system for stormwater treatment with sumps where necessary shall be implemented.

7. Sundown Road and Ringo Drive shall be upgraded and paved to County standards with the platting of this subdivision.

8. Ringo Drive shall have a turnaround subject to Fire Department and County Surveyor approval.

9. Thirty feet of right of way shall be granted along Humble Road on the west side of Lot 1 and along Sundown Road abutting the north side of the subdivision to create the needed 60 foot right-of-way width for county road requirements. This area shall be dedicated as public right-of-way and indicated as such on the plat.

10. The following shall appear on the face of the plat and on each instrument of conveyance: Acceptance for a deed to lot shall constitute assent of the lot owner to waive their right to protest an RSID for the upgrading and paving of Humble Road. The waiver shall run with the land and shall be binding on the transferee, successors, and assigns of the owners of the land depicted hereon.

11. The covenants shall recommend homeowners to obtain a copy of "Living With Wildlife". This brochure is designed to develop a more peaceful coexistence between humans and wildlife. A copy may be obtained from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, or Rural Planning, 200 W. Broadway, Missoula, MT 59802.

12. To satisfy parkland requirements, one-ninth of the subdivision area shall either be dedicated to the public or deeded to a Homeowner's Association, or cash-in-lieu shall be donated to the County Park Fund, as directed by the governing body.

13. Comments of Bill Reed, Fire Marshall are attached. A $50 fee per lot shall be required for the purchase of a fire hose.

14. An easement for the ditch at the foot of McCauley's Butte shall be shown on the plat subject to approval by the appropriate irrigation district. Any modification or obstruction of any ditch on the property shall be approved by the district, and shall not cause flooding on adjacent properties.

Subject to these conditions, the staff recommended that the Preliminary Plat of Rangitsch Addition No. 4 be approved based upon the findings of fact.

Bob Rangitsch, owner of the subdivision, commented on the conditions of approval; Condition #4 he said was a misunderstanding with John Merrell, Director of the Office of Community Development, who thought they were going to build higher on the hill. He agreed not to build if the slope was greater than 25% on Lots 10 and 11. However, there are two building sites (one on each lot) south of the irrigation ditch. He requested that Condition #4 specifically state that on Lots 10 and 11, building would not occur on grades in excess of 25%. Regarding Condition #15, he said on four sides of the subdivision the neighbors have woodburning stoves. This subdivision should not be discriminated against, but should live up to the restrictions for woodburning stoves. He commented on the requirement for approval for Rangitsch Addition No. 3 one year ago, which required them to extend Sundown Road. He stated he complied with this requirement and extended Sundown Road.

Greg Martinsen, Martinsen Surveys, commented on Condition #4; subdivision regulations allow for construction of buildings on slopes that do not exceed 25%. The 3136 elevation excludes a great amount of area that is less than 25% in grade. They are well aware that if the location was over 25%, they would need to do some engineering design work for foundations, go before a special review committee, etc. They do not intend to build on the areas in excess of a 25% grade. He requested that Condition No. 4 specifically address this by stating that no portion of the lots in excess of 25% shall be constructed upon.

Regarding Condition #5, they placed additional no access zones to protect the approaches so there won't be driveways intersecting at unfavorable intersections with the main roadways.

Regarding Condition #8, he said he had discussions with Bill Reed of the Rural Fire Department regarding what he wanted for a turn-a-round on the temporary cul-de-sac by Lot 11. Bill Reed expressed concern that the

Department be able to maneuver emergency fire vehicles in and out of the cul-de-sac without a bunch of maneuvering. They have come to a satisfactory agreement for both parties.

He spoke about the approval of Rangitsch Addition No. 3 one year ago; the Commissioners recommended that Sundown Road be developed and the right-of-way granted to continue it through with the advent of the proposed subdivision, Rangitsch Addition No. 4. This is what they have done. They have also dedicated the additional 30 feet of right-of-way on Humble Road by Lot 1. At a future date, Ringo Drive will be continued through to Humble as a loop road.

He commented that they prefer to give cash-in-lieu of parkland. Condition #14 can be worked out between Mr. Rangitsch and the ditch company if a situation does arise. Regarding Condition #15, he said there are already regulations within the Air Attainment Zone concerning wood stoves. He requested that Condition No. 15 be dropped as well.

The hearing was opened to public testimony.

JoAnne Graham, 2712 Glen Drive, expressed concerns relative to 1) access to the proposed subdivision; 2) the integrity of the McCauley Butte; 3) the effect of the septic systems on the Missoula aquifer; 4) an irrigation ditch which runs through her property; and 5) the need for curbs and gutters. She said Glen Drive is a short dead end street which accesses only three other homes; there is no through traffic. The residents are concerned about the substantially increased traffic on Glen Drive and the effects on the neighborhood if the subdivision is approved as proposed. A conservative estimate of the increased traffic on Glen Drive is between 80 and 100 cars per day which will change the quiet residential street. She spoke about Mr. Rangitsch and his comments regarding the traffic and his unwillingness to accept any of the impacts from his subdivision. There are alternative access routes to the subdivision which would maintain the character of Glen Drive. She commented that the residents were never notified of Rangitsch Addition No. 3; she thanked the Commissioners for the opportunity to speak at this hearing.

Paul Ferguson, 2713 Glen Drive, expressed concerns relative to the access to the subdivision. Glen Drive has been a dead end street for the last 40 years. The proposed road would change the traffic patterns through Glen Drive. Humble Road would seem to be the natural access to the subdivision; this wouldn't hinder development and would preserve the integrity of Glen Drive. He expressed concern relative to the proposed borrow pits on either side of the road. This will create a mess with weeds and standing water. He suggested that curbs and gutters would better serve this area. He wondered about the 60 foot roadway requirement when the surrounding roadways are narrow country roads. He said George and Kim Horvath, who couldn't be present, indicated their concern relative to making Glen Drive a through street and the safety of the children. They suggested that the access to Glen Drive be restricted to pedestrian and bicycle traffic.

Bob Massey, 2704 Glen Drive, stated he did not have a wood stove in his home; there is not much wood burning in the area. He expressed concerns relative to making Glen Drive a through street and gave reasons as to why Glen Drive should not be a through street. Glen Drive will be impacted more significantly than any other road in the area. There are alternatives to opening up Glen Drive; a cul-de-sac road off Humble Road to the south could service the lots in the proposed subdivision and future subdivisions. The residents' concern is not development, but the opening of Glen Drive and the resulting traffic. He proposed some alternative traffic routes. He wondered about traffic control at the intersection of Sundown and Glen Drive. He wondered when paving would occur on Sundown Road; the developers have two years to pave this road. Due to the increased traffic in the area, he asked what kind of dust abatement, if any, will be used in the interim period?

Fern Hart stated that she received a phone call from Helen Gharrett who requested that Sundown Road not be opened.

Bob Rangitsch addressed the neighbor's concern relative to paving Humble Road. Last year residents in the area along with Horace Brown, County Surveyor, and the Commissioners, worked together to pave Humble Road by way of an RSID; however, the cost was too great. However, because the area is being subdivided and lot buyers will waive their right to protest the upgrading of Humble Road, this road eventually will be paved; it is a matter of time. He stated people will probably not go down Glen Drive because it will not be paved right away; it will be paved within two years.

Greg Martinsen said when Rangitsch Addition No. 3 was discussed and approved last year they indicated they would be doing Rangitsch Addition No. 4. At this time, the Office of Community Development, the Surveyor's Office and the Commissioners recommended that they continue Sundown Drive all the way through so that double road coverage and dead end streets would not result. They have done exactly what they have been asked to do.

Fern Hart asked Horace Brown to suggest the best traffic patterns with a view to future growth.

Horace Brown said 30 feet of right-of-way was provided along the south of the subdivision indicating that it was expected that the next subdivision to the south would provide the other 30 feet for the 60 foot roadway. It should not be any surprise to anyone that Sundown Road will extend to the east. He stated that a long road with a cul-de-sac is very hard to maintain and he would rather have a long road that goes all the way through. Ringo Drive will

go all the way through eventually to Humble Road when the next subdivision is done. People on Humble Road to the south are not going to go east on this drive when it is only 1320 feet to South Avenue. There may be some people on Sundown Drive on the west side who will use the paved portion of Sundown to the east to go up Glen Drive because they are paved. The RSID to pave Humble Road is presently being processed; it was started a year and a half ago.

Fern Hart said from Sundown to South on Humble is 1320 feet. She asked if this road is being oiled?

Horace Brown stated that Humble Road is being dust oiled from Sundown to the north to South Avenue. Humble Road to Sundown Drive is 60 feet wide. There are no curbs and gutters on Humble Road which is not paved at this time. Whether or not Humble gets curbs and gutters depends upon the engineering needs. He did not know whether or not McCauley was even built all the way through or not. Remington Court, which is paved with no curb and gutter, runs between Glen Drive and Humble Road to the north.

A discussion ensued relative to access from Humble Road into this area. Would people use Remington Court since it was paved? It was concluded that people would not use Remington Court because it did not go all the way through to South Avenue. A question was asked relative to the location of the irrigation ditch. The ditch dead ended on Mr. Rangitsch's property and has been shut off at Sundown Road within the last year.

Fern Hart asked if there has been consideration given to eliminating the 'dog leg' between Ringo Drive and Glen Drive?

Horace Brown stated he would prefer if this 'dog leg' could be straightened out, but this is a low traffic area and not much additional development can be done. It is better when intersections line up.

Fern Hart speculated about what could occur in the future relative to development. The lots could be laid out to accommodate two residences per acre if they had building sites on part of them.

Horace Brown commented that he would rather see Glen Drive line up with Ringo Drive.

Dean Graham, resident of 2712 Glen Drive, referred to the irrigation ditch which crosses their property and goes under Sundown Road and empties into Mr. Rangitsch's subdivision. Up until this year, the ditch ran into his property; Mr. Rangitsch closed the ditch this year and now it flows into their back yard. He wondered what will happen to the ditch once the property is developed; where is the water going to go?

Bob Rangitsch said there is a head gate on South Avenue which regulates the water in the ditch. The people merely have to put a lock on the head gate so someone can't open it.

Barbara Evans stated that the Commissioners do not have the authority to say what can and cannot be done with the ditch. It is not as simple as putting a lock on someone's head gate. She suggested they get in touch with the owner of the ditch.

She stated that the Missoula valley is growing; at some point Missoula will need land for the families moving in. To set the precedent that all the lots in Missoula will be one acre lots with individual septic systems is rather short-sighted. The Board would like developers to consider allowing the capability of splitting lots in the future when there is a need for land space for housing. She stated one year ago when Rangitsch Addition No. 3 was approved the Commissioners wanted to see Sundown Road extended; at some point in time this should be the case. However, should it be opened at this time? She stated she would prefer to see the impact of this subdivision be on this subdivision rather than have the 'dog leg' onto Ringo Drive. She stated she agreed with Horace Brown that there should be a straight road which is a safer situation. There needs to be turn-a-rounds at the end of McCauley Drive, Ringo Drive and Remington Drive. She stated there should be right-of-way granted temporarily at the end of Glen Drive so County vehicles can turn around. The maintenance of the right-of-way should be left there so that at some future time when the density calls for it, Sundown can be opened. She suggested that the lots be configured so in the future they could be split either in half or in fourths. She stressed that someday the density and traffic will be there, but won't be as bad as the residents think.

A discussion ensued relative to moving the entrance road to the subdivision to the south of the lots. There would be a road on both the front and the back of the lot which is unnecessary. However, the lots are large.

Greg Martinsen said at the original meeting which was held with OCD, the Surveyor's Office, the fire department, etc., Horace Brown and Bob Holm of the Surveyor's Office were both present as well as Barb Martens; this road was reviewed at the meeting. He indicated that at this time, he wanted to design Ringo Drive to intersect with Glen Drive; however, the lot configuration prohibited it. At that time, no one at the meeting had any problems with it.

Barb Martens commented on moving the roadway. The Commissioners could look at either putting the roadway to the south with single tiered lots or possibly looking at putting a thirty foot road easement on the back of the lot to facilitate future lot splits and the eventual roadway. When the next phase came in, the other 30 feet could be obtained. If no-build easements were obtained for half or quarter lots, this would facilitate an eventual roadway.

Regarding the access along Sundown Road, she said the staff recommended in favor of the subdivision with this access in mind. Dead end streets are prohibited in Missoula County; Glen Drive is presently a dead end street and wouldn't be allowed with today's regulations, but would have to have a cul-de-sac or turn-a-round. The current proposal would take care of the dead end street situation.

Barbara Evans asked Barb Martens to address putting Ringo Drive to the south of the lots which would not open Sundown Road at this time, but providing right-of-way or a turn-a-round at the end of McCauley Lane and Glen Drive.

Barb Martens said if this was to occur, there would be a couple lots with roadways on each side. Currently, Sundown Road goes in as far as Remington Court. Lots 1 and 2 would have a road on each side of the lot. If Sundown didn't extend beyond its present location until it is extended in the future, then the remaining lots wouldn't have a road on each side of the lot. In the future when the lots were split, a road would be necessary. She strongly encouraged that the easement be preserved if the Board chooses not to extend Sundown.
She explained the reason no one was notified for Remington No. 3 was that this was considered a minor subdivision of five or fewer lots which does not require notification of adjacent landowners. If the proposed subdivision is six or more lots, by law OCD is required to put a legal ad and notify adjacent landowners.

A question was asked by a member of the audience relative to how people should know or be aware of subdivisions if they are not notified? It was explained that the Office of Community Development posts big white signs around town.

Barb Martens said the easement has been there since the early 1900's and there has been the potential for the road to go through.

Fern Hart said she wasn't sure that they can even discuss not having this road. Development can be mitigated. The road is a dedicated easement; it is a question of when the road will be put through. She asked Horace Brown about his feelings relative to having a road on each end of the lots.

Fern Hart asked if it was a practical design to have an entrance at the north and south of the lots?

Horace Brown said this would require the Road Department to maintain two roads on the front and back of a lot. If the lots don't split in the future, then the Road Department would have to maintain something that is not necessary.

Barbara Evans asked if the Board plans for the capability of future development, then shouldn't they ask for 30 feet on both sides of the lots? If the Board is going to ask that the lots be reconfigured to allow for future splits, then they will have to ask for right-of-way on either side of the lots. She explained that she had requested Ron Ewart to look up language for a condition relative to future lot splits.

Ron Ewart explained that the language was taken from Zintek Addition which stated, "The developer shall delineate buildable areas on the face of the plat to facilitate further subdivisions." In the staff report under Findings of Fact in the section "Need", it discussed the potential need for future lot splits. The 30 foot right-of-way on the south side of the lots would facilitate future lot splits.

Greg Martinsen said the configuration of Zintek Addition is considerably different from this. The layout of the parent parcel lent itself to this kind of condition. This property doesn't as well. By the time the lots are split and setbacks are added, a 40 or 50 foot wide house may be the only building allowed.

Fern Hart said given the growth Missoula is experiencing, this area will be infill for development. People must try to think ahead for growth. Each lot in this subdivision will have a septic system and a well; this area is close to the river. Every lot will not divide in half, but they need to look ahead at the various issues. She commented that she would like to see this plat reconfigured; every lot doesn't have to split in half. If Ringo Drive is moved to line up the intersection with Glen Drive, Lot 6 will not have a full acre, which won't allow for a septic tank. Would it be possible to configure the lots on Sundown for a potential split, with setbacks specifying building on either the front or the back of Lots 1-7?

Bob Rangitsch said he would sign a document which would restrict the sale of 3 or 4 lots per year while Humble is not paved. He said he wasn't in any hurry for this subdivision to go in. He stated he appreciated his view he has had for 30 years, but needs to take care of his property. Ringo Drive will be the only access to his 15 or 20 acres. He stated he spent over $4,000 on the plat trying to please the various county agencies.

Barbara Evans asked Horace Brown to give his feelings regarding reconfiguring the north end of Ringo Drive so that it would intersect at a 90 degree angle with Glen Drive.

Horace Brown said the only way it could be done would be to move the right-of-way from Ringo Drive opposite of Glen Drive; Lot 5 would be moved over and Lot 6 could still be an acre, but the boundary line would be extended into Lot 7 further to the north. He stated he did not look at this beforehand in order to see the best configuration.

Greg Martinsen explained what would have to be done in order to get rid of the 'dog leg'. If Glen Drive and Ringo Drive were lined up, this would create more traffic. He said he looked at this configuration, but decided it would cause many design complications and problems.

Bob Rangitsch commented on the configuration under discussion. In the future, McCauley Drive will be extended all the way to South Avenue; right-of-way has been deeded to the County since 1902. Also, part of the back lots are unbuildable because it is too steep; if the lots are reconfigured, they will be totally unbuildable.

Greg Martinsen said he did not have any problem reconfiguring lots to facilitate future lot splits. However, the character of the existing neighborhood is rural. The types of homes which will be built will be large and will need the full acre.

Paul Ferguson commented on the possibility of accessing the lots from the south onto Humble Road; this would save having the 'dog leg' intersection.

Fern Hart said the residents are ignoring the fact that Sundown will be a 60 foot roadway someday in the future.

Dean Graham commented on McCauley Drive being put through. The people who live in this area access their homes via Glen Drive; the road does not have to be built through.

Fern Hart commented on the various configurations of cul-de-sacs and access to the proposed subdivision.

Barbara Evans proposed a certain configuration with Ringo Drive being the primary access for the subdivision. The right-of-way for Sundown and McCauley would be maintained. Lots 1-7 would have building sites on both the front and back of the lots.

Horace Brown asked who was going to be responsible for building Sundown Road?

Barbara Evans stated she would want a waiver of protest for the upgrading of Sundown Road in the future.

Fern Hart said she would rather see the plat sketched out; they have created a different subdivision. The problems have been laid out and compromises have been made. She restated what had been agreed upon by both herself and Barbara Evans; the access from Humble Road to the subdivision would be Ringo Drive. Lots 1-7 shall have building sites on both sides of the lot. The lots would have a waiver of protest for an RSID for the upgrading of Sundown Road, Ringo Drive and Humble Road.

Barb Martens suggested that an additional condition could be added that states the developer shall redesign the plat to address the concerns of the Commissioners and is subject to the Board's approval.

Fern Hart stated that it is not the Commissioner's purpose to redesign plats, but it is their purpose to listen to the concerns of the area. However, the residents must face the fact that the area will grow.

Barbara Evans clarified that Fern Hart would like to have Sundown Road open; she would prefer not to have it open; Horace Brown would like to have turn-a-rounds. The compromise to this matter would be to place cul-de-sacs at the end of Glen Drive, Ringo Drive and McCauley Drive. At some future date Sundown Road can be opened when further development occurs.

Bob Rangitsch said he wanted the construction sites to face Sundown Road. He wondered about this other road they were talking about.

Barbara Evans explained that the impacts from this subdivision should fall on this subdivision. Sundown will remain right-of-way until further development occurs.

Bob Rangitsch said Sundown Road is a 30 foot deeded roadway. He stated that if he can't use this access, he would junk the subdivision and take a different route. The subdivision was laid out this way because of McCauley Butte. If Ringo Drive has to be moved, two lots would be lost. He said he didn't want to subdivide the lower property at this time.

Barbara Evans said the people who live on Glen Drive do not want the impact of Mr. Rangitsch's subdivision on them.

Bob Rangitsch stated that Sundown Road is a deeded roadway. The Commissioners are going back on what they decided a year ago. He said he spent over $4,000 on this plat which is now useless. He stated he did everything the Commissioners wanted relative to Sundown Road last year; the Board is 'changing horses' in mid-stream.

Barbara Evans said a year ago there wasn't a room full of area residents who did not want the full impact of this subdivision. She asked the audience if the residents would agree to the opening of Glen Drive, but with the caveat

that Mr. Rangitsch will only sell 2-4 lots per year until such time as Humble Road is paved so the dust problem isn't there?

The audience indicated that they didn't want Glen Drive opened at all. It was concluded that the development isn't the problem; opening Sundown to traffic is the problem.

Bob Rangitsch said Sundown is a deeded roadway.

Horace Brown suggested the best thing to do would be to continue action on this matter.

Barbara Evans requested that Barb Martens facilitate a meeting between Horace Brown, the developers and some representatives of the residents to come up with a solution to this matter.

Fern Hart moved and Barbara Evans seconded the motion to postpone action on Rangitsch Addition No. 4 for two weeks until the Public Meeting on August 4, 1993. The motion carried on a vote of 2-0.

Fern Hart commented that she appreciated everyone trying to come to a solution.

BID AWARD: PLANT MIX ASPHALTIC CONCRETE (ROAD DEPT)

Barbara Evans explained from information received from Horace Brown, County Surveyor, that bids for 2,500 tons of plant mix asphaltic concrete were opened Monday, July 19, 1993 at 10:00 a.m. with the following results:

Jensen Paving Company	$43,875.00
Western Materials, Inc.	$58,625.00

The staff recommended that the bid be awarded to Jensen Paving Company in the amount of $43,875.00 as the lowest and best bid. There is adequate funding for purchased asphalt for fiscal year 1993-94.

Fern Hart moved and Barbara Evans seconded the motion to award the bid for 2,500 tons of plant mix asphaltic concrete to Jensen Paving Company in the amount of $43,875.00 as the lowest and best bidder. The motion carried on a vote of 2-0.

HEARING: INTENT TO CREATE RSID NO 8454 (CONSTRUCTION OF SANITARY SEWER MAIN EXTENSION TO SERVE BLOCK 1 OF MACLAY ADDITION)

Jesse Sattley, RSID Coordinator, explained that a petition was received with 100% support for sewer services extending to the Maclay Addition. There are a total of eight sewer connections at an estimated rate of $3,375.00 (not including interest on bonds) each and payable over a period of 15 years. The estimated cost including construction, engineering, contingency and county costs is $27,000.00. No protests were received.

The hearing was opened to public comment.

Tom Hanson, PCI, explained this is a neighborhood initiated RSID to fund the extension. The construction on Reserve Street provided a lateral line that can be extended to serve the subdivision. This area is part of the City's masterplan.

Bob Harlow, owner of a business in the district, spoke in favor of the sewer extension.

There being no further comment, the hearing was closed to public testimony.

Fern Hart moved and Barbara Evans seconded the motion to approve the creation of RSID No. 8454 for the construction of sanitary sewer main extension to serve Block 1 of Maclay Addition. The motion carried on a vote of 2-0.

HEARING: INTENT TO CREATE RSID NO 8452 (CONSTRUCTION OF SEWER COLLECTION SYSTEM FOR PORTION OF LINDA VISTA 3RD SUPPLEMENT)

Jesse Sattley, RSID Coordinator, explained that RSID #8452 is the first of two intended RSID's to comply with the DHES/Montana State Administrative Order for Corrective Action: Groundwater contamination in the Linda Vista Subdivision area, Missoula County, Montana. RSID #8452 encompasses a portion of the Linda Vista 3rd Supplement and will construct a sewer collection system to connect to City sewer. The estimated cost including all costs is $213,000.00. The district will consist of 42 lots/hookups. A method of assessment was established to calculate existing improvements on 12 lots previously contributing a useable system that can be integrated into the design. Those 12 lots will therefore be assessed an adjusted credit which will total their estimated share of $2,761.00 per lot/hook-up. The remaining 30 lots which have no existing useable system in place will be assessed the total cost per lot/hook-up of $5,995.00.

No protests were received; this RSID is in response to a State order.

Michael Sehestedt, Deputy County Attorney, said this is an RSID for sanitary sewer. An RSID for sanitary sewer can be created even in the face of unanimous protest by a unanimous vote by the Board of County Commissioners. The area to be served is part of the Linda Vista area which is under an administrative order from the State Department of Health directing the County Commissioners and the City-County Board of Health to take action to correct water quality problems, specifically in the lower Linda Vista area. There are a number of wells which are exceeding the drinking water standards for nitrates. The plume of nitrates is beginning to at least potentially threaten the public water supply well for the rest of the Linda Vista homeowners area. They are showing increased nitrates, but have not yet reached levels where they exceed drinking water standards. This particular RSID will connect those homes in Linda Vista 3rd Supplement which was served by an engineered community drainfield; the other homes were on individual septic systems. The lines will be extended from the homes already being served to those on individual septic systems. The difference in price is the difference between those already on the line and those who will have to have lines extended to them. There will be a large settlement tank which will pump into the interceptor. These residents will be able to connect considerably cheaper than the other areas of Linda Vista will be able to. The sentiment of the majority is to get on with it and get them hooked up.

The hearing was opened to public comment.

Mike O'Hara resident of 3159 Paul Lane, spoke in favor of the RSID. He asked about the agreement between the City and County of Missoula relative to a plan to avoid annexation for this area. The agreement would state that if the Linda Vista residents hooked up to sewer through an RSID, the City would not annex the residents for the period of the RSID. He wondered if anything had been put down in writing?

Michael Sehestedt agreed with Mike O'Hara's understanding; the City has agreed to do this. He stated he did not know whether or not it has been formally reduced to writing. John DeVore, Administrative Officer, would be the one to contact regarding this.

Carl Rummell, 3023 Eldora Lane, said the 12 residents in this area have tried repeatedly over the years to get onto the sewer. They would like to see this take place as soon as possible and do not want the project to be delayed. The cost to hook up to sewer has gone up two and a half times in five years.

Bob Harlow, 3105 Eldora Lane, explained that their lot was excluded from this RSID. Their lot is below Paul Lane; to be able to access the line, they would have to have a S.T.E.P. system or other pumping arrangement. He requested that his lot be included in the RSID to reduce his cost.

Chip Johnson, DJ&A, explained the method which was used to draw the RSID boundaries. Mr. Harlow is within the 3rd Supplement as are other lots; these are not a part of the RSID. He stated when the boundaries were being set, they tried to treat everyone equitably; they tried not to jump beyond one lot depth from the existing sewer line. If he was to try to do this, then there would potentially be other requests. Mr. Harlow may save a few dollars by being part of the RSID, but his request will cost the larger RSID participants more money in the future. He explained that three or four residents inquired about being included in the RSID. He told them they would need to go before the Commissioners with their request.

A discussion ensued relative to Mr. Harlow's request and the RSID boundaries. They tried to keep the present RSID all in gravity-type systems; Mr. Harlow's lot would need an on-site S.T.E.P. system which would pump into the extended collection line.

Michael Sehestedt said Mr. Harlow would be assessed $5,995 for the RSID plus on-site cost of the S.T.E.P. tank and the pump, including maintenance. This RSID may not be much cheaper for Mr. Harlow.

Chip Johnson said there may not be a large cost savings. He explained it has been the feeling with the current RSID and the future RSID to serve the remainder of the area, that the area would be served only by lateral lines which would allow a better chance for local contractors to bid on the projects. Also, this plan has been approved by the City of Missoula which has indicated they prefer a plan without S.T.E.P. tanks in each yard. If Mr. Harlow became a part of the RSID, he would have to put in a whole new system, and a blanket easement would be placed on the lot; the City would own the pump and the tank.

A discussion ensued concerning the City's requirements and standards for this project. It was concluded that Mr. Harlow would not see much of a savings by becoming a part of this RSID due to the S.T.E.P. system requirement.

Chip Johnson said if Mr. Harlow were to be allowed to become a part of the RSID, his share would be $5,995, plus the cost of installation of the S.T.E.P. tank and the line which would be around $6-7,000; the total to become part of RSID No. 8452 would be approximately $12-13,000. If he stays in the future RSID, the cost will probably be the same. The pavement on Eldora will be cut in this project.

Fern Hart stated she was not inclined to start making exceptions. A policy has been established which is being administered fairly.

JULY 21, 1993 (CONT.)

There being no further testimony, the hearing was closed to public comment.

Fern Hart moved and Barbara Evans seconded the motion to create RSID No. 8452, for the construction of sewer collection system for portion of Linda Vista 3rd Supplement. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 3:40 p.m.

JULY 22, 1993

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

Plat

The Board of County Commissioners signed the Plat for Zintek Addition No. 1, Tract B of COS 407, located in the NW 1/4 of the NW 1/4 of Section 18, T. 13 N., R. 19 W., PMM, Missoula County, a total area of 4.561 acres, with the owners of record being William W. and Nancy J. Zintek. Cash in lieu of parkland in the amount of $3,390.44 was donated to the Missoula County Park Fund.

Modification of Agreement

Acting Chairman Evans signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences modifying the terms of the agreement between them concerning administration of a hepatitis B immunization project (DHES No. 330196) as per the items set forth. The Modification was forwarded to DHES in Helena.

Other items included:

> The Commissioners signed authorization on a letter from Horace Brown, County Surveyor, to Bill Ettenger, CRSS, c/o Scott Richman, notifying them to proceed with the Maclay Bridge Site Selection Study, retroactive to July 15, 1993, with the contract to follow as soon as it is completed.

JULY 23, 1993

The Board of County Commissioners met in regular session in the afternoon; a quorum of the Board was present. Commissioner Evans was out of the office until noon.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

JULY 26, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Agreement

The Board of County Commissioners signed an Agreement between the City of Missoula, Missoula County, and the University of Montana authorizing parking and moving traffic law enforcement on the University of Montana campus and streets and alleys contiguous thereto by University of Montana Security Department personnel, subject to the limitations and conditions set forth in the Agreement. The Agreement was returned to the City Attorney's Office for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JULY 27, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Functional Classification Technical Correction

Chair Dussault signed a Missoula County map showing a proposed technical correction in the Functional Classification System, adding Jocko Road as a minor collector route. The map was returned to the Montana Department of Transportation in Helena.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JULY 28, 1993

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

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Betty L. Wilkins for the purchase of a bare lot on 39th Street (Lot 6, Mountain Shadows Subdivision, Block 3) for a total purchase price of $20,000.00 (counter offer by the Commissioners), subject to the special provisions and terms set forth. The Agreement was returned to General Services for further handling.

Escrow Receipt and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and Escrow Receipt and Agreement between Missoula County and R. C. Hobbs, as per the terms and conditions set forth. The documents (MS-31998) were returned to First Montana Title Company of Missoula.

Letter of Agreement

The Board of County Commissioners signed concurrence on a Letter of Agreement between the County Surveyor and the Lolo National Forest for the purpose of documenting the agreed on procedures between Orville L. Daniels representing the Forest Service and Horace Brown representing Missoula County on the management of the Deep Creek Access Route across sections 7, 8, and 18; T. 13 N., R. 21 W. PMM, as per the items set forth. The original document is in the Deep Creek file.

Memorandum of Understanding

Chair Dussault signed a Memorandum of Understanding between the USDA Animal and Plant Health Inspection Service - Animal Damage Control and Missoula County, whereby in accordance with the terms of a special Cooperative Field Agreement between the Animal Damage Control program and the Montana Wool Growers Association, the County agrees to allocate $220.00 for the protection of sheep from destructive animals for the period from July 1, 1993, through June 30, 1994. The Memorandum was forwarded to USDA APHIS in Helena.

Agreement and Letter

The Board of County Commissioners signed an Agreement between Missoula County and the Montana Department of Transportation for road improvements on Secondary Route 474, locally known as Pulp Mill Road. The Agreement documents the intent of the parties and sets forth the responsibilities of each in the development, funding, and administration of a pavement preservation project, as per the items set forth, with the work to be accomplished during the 1994 construction season. The Commissioners also signed a Letter to the Montana Department of Transportation, Secondary Roads and Statistics Bureau, authorizing the use of the County's Secondary Road Funds for epoxy pavement striping for the Pulp Mill Road project, a total of 2.08 miles. The documents were returned to Horace Brown, County Surveyor, for further signatures and handling.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Barbara Evans and Fern Hart.

PROCLAMATION: "CLEAN WATER WEEK"

WHEREAS *On August 5 and 6, 1993, over 400 youth are in Missoula as part of the Western States Lutheran Youth Gathering and have volunteered their time to stencil Missoula's storm drains with a "Dump No Waste" message and to clean up six miles of the Clark Fork Riverbank; and*

WHEREAS, *Pollution and degradation of surface and ground water pose immediate and long-term threats to the Missoula aquifer and the health, safety and welfare of the citizens of the Missoula community; and*

WHEREAS, *We Missoulians live above the aquifer that supplies our drinking water, and our daily activities can cause pollution of that aquifer; and*

WHEREAS, *Events of the past decade, including serious pollution episodes, have made us aware of how vulnerable our aquifer is to water pollution; and*

WHEREAS, *The Missoula aquifer gets a major portion of its water from the Clark Fork Rivers; and*

WHEREAS, *The Clark Fork-Pend Oreille Coalition has initiated and carried out a Storm Drain Stenciling Project in partnership with the Mountain Water Company to warn Missoula's residents not to dump any pollutants down any of Missoula's 3200 storm drains; and*

WHEREAS, *A clean river and river bank shows the community and visitors that we care about our resources and that clean water contributes to the quality of life in Missoula; and*

WHEREAS, *This proclamation will serve as a reminder to the citizens of the Missoula Valley that we must act responsibly to ensure the clean water so vital to our lives.*

NOW, THEREFORE, *BE IT RESOLVED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF MISSOULA that the County of Missoula declares the first week of August, 1993, to be* ***CLEAN WATER WEEK.*** *To observe and thank the efforts of the Western States Lutheran Youth Gathering for volunteering their efforts to protect Missoula's water and clean up the Clark Fork River and to educate the Missoula community of the important role a clean aquifer and river play in preserving the quality of life in Missoula, and to renew our collective efforts to protect and defend the Missoula aquifer and Clark Fork River from pollution and degradation.*

Alexander Brooks, coordinator of the cleanup, thanked the Commissioners for their support.

Barbara Evans moved and Fern Hart seconded the motion to adopt the Proclamation declaring the first week of August, 1993, to be Clean Water Week. The motion carried on a vote of 3-0.

INFORMATIONAL HEARING: NEW PROPOSED STATE MODEL SUBDIVISION REGULATIONS; POSSIBLE CHANGES TO THE EXISTING MISSOULA COUNTY SUBDIVISION REGULATIONS; AND THE PROCEDURE AND TIME LINE TO BE FOLLOWED IN MEETING THE OCTOBER 1, 1993 DEADLINE FOR ADOPTION OF SUBDIVISION REGULATIONS CONFORMING TO REQUIREMENTS OF 1993 LEGISLATURE

Barbara Martens, Planner at the Office of Community Development, explained that the Montana Department of Commerce has recently submitted for review and comment a draft proposal of a new model subdivision regulation. The Department of Commerce will present a revised version of the model subdivision regulations on August 25, 1993.

The Office of Community Development staff drafted a set of possible changes to the existing City and County Subdivision Regulations to comply with the 1993 statutory changes. With the passage of House Bill 408, the 1993 Legislature made a number of significant changes to the Montana Subdivision and Platting Act. She summarized a number of the changes: 1) the 20 acre definition of a subdivision was changed to 160 acres; 2) the occasional sale exemption was deleted; 3) the use of family conveyance exemption was restricted to a one time only transfer of land to each member of the immediate family; 4) the eight criteria of public interest were changed to five primary review criteria.

She said comments have been requested on both the new State model subdivision regulations and the draft amendments to the existing County Subdivision Regulations. The purpose of the today's hearing is to obtain information and clarify the issues prior to the formulation of the proposed regulations and changes. Following the informational hearing and the subsequent changes, the Regulations will be considered by the Planning Board, the Board of County Commissioners and the City Council. Additionally, there will be more hearings held in September. A legal ad will be placed in the Missoulian prior to the hearing dates. Local governing bodies are required to adopt the 1993 Statutory changes by October 1, 1993.

JULY 28, 1993 (CONT.)

The hearing was opened to public testimony.

Kim Birck, representative of the group Friends of Grant Creek, commented on a number of clerical and numerical errors. She asked if the changes to the regulations eliminated remainders? She wondered if the County or City could regulate remainders within their regulations?

Michael Sehestedt, Deputy County Attorney, explained that the County does not have the ability to eliminate the remainder parcel. Any remainder under 160 acres will have to surveyed, sanitary restrictions lifted, etc. The whole issue of remainders was a troublesome one; it basically was a creation of an Attorney General's opinion. No reference is made to remainders in the statutes. If a parcel is created by one means or another, there will be something left of the original parcel. There isn't anything the County can do to about remainders.

Kim Birck asked if a remainder sale is different than an occasional sale?

Michael Sehestedt said it is the same as the sale of the parent parcel. A family transfer may be used to sell a part of the parent parcel; a tract is created along with what is left of the parent parcel--a remainder. This can be sold just as the parent parcel could have been sold subject to health, zoning and other non-subdivision regulations.

Kim Birck asked even though a remainder may be less than 160 acres, would it still get around subdivision review?

Michael Sehestedt said if a person starts with a piece of ground, there is always one piece that can be sold. The occasional sale exemption is no longer allowed under the new regulations. The most common transaction, which would create a parcel, will be the family transfer. This has been further restricted and limited to one per family member per county. When a family transfer exemption is used it creates two parcels; a somewhat smaller parcel and the newly created parcel. In most cases, there won't be an increase in parcels such as in the case of boundary relocations.

Kim Birck said another of the group's concerns is there will be in an influx of a great number of minor subdivisions. The government needs to be very careful and consistent in approving or denying these subdivisions to avoid setting a precedent. She wondered about the legal issues if the County is not consistent. She expressed concern relative to zoning and the Comprehensive Plan. Because of a failure to act on the Planned Unit Development zoning in Grant Creek, the zoning reverted back to the underlying zoning, which may or may not be in compliance with the Comp Plan. Zoning issues need to be resolved before any subdivisions can be approved under the current or future subdivision laws. She wondered about the criteria for review that was dropped by the State. Basis of Need was dropped, but is supported by the group because subdivisions create roads; many roads are created and then abandoned which results in many unneeded roads cutting up the area. The criteria, Expressed Public Opinion and the Effects on Public Health and Safety, were also dropped by the State. She stated the group would like to see a moratorium on subdivision approval for Grant Creek until the zoning question is resolved in a way that the zoning would be consistent with the Comp Plan.

Michael Sehestedt explained that the County is looking at revising their subdivision regulations with a deadline of October 1, 1993 because the State law which authorizes the County to adopt local regulations has changed. One of the specific areas of change was revision of the review criteria in the authorizing legislation. The Legislature dropped the Need for the subdivision and Expressed Public Interest as review criteria; Public Health and Safety are still considered as a review criteria. The Legislature determined that the criteria Need should probably be left to the developers; need exists if there is something someone can sell. Expressed Public Opinion was also probably dropped because there may have been experiences where developers had all of their friends present; expressed public opinion in and of itself, without regard for the primary review criteria, and ran the risk of distorting the review process. Under the power that the Commissioners have been delegated by the Legislature, they can no longer use these two criteria as primary review criteria. They will still be an issue and a factor in the review, but are not stand-alone criteria.

He explained that the County does not have the ability to declare a moratorium. If a subdivision comes in that meets the existing subdivision review criteria, is consistent with the zoning, then the subdivision should be approved. On the other hand, if a subdivision is entirely consistent with the zoning, but doesn't meet the other primary subdivision criteria, then it can be rejected. Review of subdivisions needs to be approved/denied on the basis of the regulations in place by the zoning and the adopted subdivision regulations. The issues related to each particular subdivision need to be addressed in the context of that particular subdivision. The zoning in Grant Creek was adopted consistent with the Comp Plan as it stood in 1974. The Comp Plan has since changed somewhat, but the County has not followed the Comp Plan changes with proposed zoning changes. If the County does this, the proposed zoning changes would still be subject to the 40% protest and right of the property owners in the area to kill the proposed zoning change.

Scott Waldron, Frenchtown Rural Fire Department, said from their standpoint the regulations meets their needs, especially in the interface area where it addresses building homes in timbered areas. There is some concern as to whether the natural preservation clause contradicts the fire protection clause. The natural preservation clause states they have to leave trees, whereas the fire protection clause states they have to eliminate some. This has been directed to the Department of State Lands who will care for this concern.

Bill Reed, Missoula Rural Fire Department, said they have reviewed the same regulations, but do have a few exceptions which he passed on to Barb Martens. He stated his department would like to participate with the formulating of County regulations.

Kim Birck clarified that during the two PUD's which have effected Grant Creek, in 1980 and 1987, a number of developments have gone in which have had higher densities than what the underlying zoning would allow. The zoning in some areas may now allow more homes because the underlying zoning has reverted back. The PUD's have affected the total density of the valley by allowing additional homes under the clustering of density; any land not sold in the subdivisions reverts back to the underlying zoning. Grant Creek zoning is a special situation; if subdivisions are allowed to go in unchecked, more homes will be built than should be there because densities were transferred to developments already in.

There being no further testimony, the hearing was closed to public comment.

Fern Hart said if there is a second minor subdivision in the same parent parcel, the Commissioners have the authority to review it from a more strict point of view.

Barb Martens stated the current regulations require that the second or subsequent summary plat from a parent parcel requires a hearing and an environmental assessment.

OTHER: CONCERNED PERSONS FOR SAFER DITCHES

Judy Pratt, representative of Concerned Persons for Safer Ditches, updated the group's efforts. She stated that $386,000 was spent in the last three years for just the ditches of the Missoula Irrigation District. They found that this money is basically being spent for one farm, lawns and gardens of several hundred people, and no commercial use. They called Caras Nursery; Marchie's Nursery; Benson's Produce; Dale's Dairy; the Department of State Lands; the Department of Fish, Wildlife and Parks; Intermountain Lumber; and Independent Lumber. Each was asked if they used the ditch water; very few used the water, and if they did, they used it very minimally and incidentally or for non-business purposes. The nurseries were asked specifically if they would be hurt if the ditches were shut down; they answered no because they do not rely upon it as the water comes through too late in the spring. The farm is owned by Ken Richardson who is a ditch board member. He was shocked when he heard that $61,882 was collected last year; he thought the budget was $25,000. The Department of Transportation indicated that $204,000 had to go into the Reserve Street project for corrugated metal culverts, manholes every 400 feet, bedding material, and labor. The road monies were from a combination of projects.

Horace Brown, County Surveyor, said it is State and Federal urban funds that were used for Reserve Street. The ditch had to be covered parallel with Reserve Street which included manholes to access the ditch.

Judy Pratt commented on how huge this project was and how so much money has been spent over the years on the road systems every time the ditches were involved. She explained that the money remaining out of the $386,000 came from the assessments from the 2700 landowners of the Missoula Irrigation District over the last three years; FY'91--$48,694.61; FY'92--$48,902 + $23,200 which came from another tax source; FY'93--$61,882.86.

Ann Mary Dussault asked if in the third year the $61,000 came from assessments or are they carrying $20,000 forward annually?

Judy Pratt said the assessment went up from $12.00 to $15.00 per acre per landowner.

Wendy Cromwell said the $23,200 was from a State check.

Michael Sehestedt said it could have been a condemnation award from the State Department of Highways for the right-of-way for Reserve Street.

Judy Pratt spoke about the large amount of money that has gone into Michael Waumsley's (who fell into the ditch a few years ago), rehabilitation. The group has looked into wells at the DNRC; the City-County Health Department's Environmental Office who published a Water Quality Study which indicated that the water aquifer produces roughly 15 times more than is used; and a hydrologist at the University who has indicated that the aquifer is "loaded". Most of the people assessed for the ditches are on wells for drinking water; with larger pumps they could pump for irrigation. The average cost for drilling a well in the Missoula valley is $3,000. Could the $386,000 been used for this purpose?

She explained that other people have tried to get something done about the ditches, but her group will not give up the effort. She mentioned the public forum which will be held on August 4th at Franklin Park at 7:00 p.m. People will be positioned along the edge of the ditch. She mentioned some of the speakers which would be present.

Barbara Evans explained that a representative from the Board would have liked to have been present, but there is a public hearing on billboards that same evening.

Judy Pratt said the DNRC indicated that no commercial water rights have ever been filed; if this is true, if someone is using the ditch for commercial use, it is illegal.

Michael Sehestedt said he doubted whether or not anyone would actually do anything about it.

Judy Pratt explained that the group has two plans of action: 1) the City can shut down the ditches and fill them in; 2) the ditch district can be dissolved by a 60% petition of the 2700 landowners. She gave the Commissioners information packets.

Ann Mary Dussault said when the districts were first created, the primary users were agricultural. Could agricultural use be differentiated from commercial users? If this is so, are there any remaining agricultural users or is the use no longer needed?

Michael Sehestedt said agricultural use is both people who farm for a living and those who raise a horse; there are probably still a number of people who use the ditch for agricultural purposes. In 1961, Legislative enactment authorized the City to determine if irrigation ditches within the city limits are a public nuisance and to require the owners to fence or install safety devices, etc. Commercial irrigation is exempted from this. It is difficult to know what is commercial.

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

FINAL HEARING ON FY'94 BUDGET

Chair Ann Mary Dussault opened the hearing for public comment at 3:00 p.m. Also present were Commissioners Barbara Evans and Fern Hart; John DeVore, Administrative Officer; Michael Sehestedt, Deputy County Attorney; Jane Ellis, Fiscal Officer; Cindy Klette, Grants Administrator; Horace Brown, County Surveyor; and Dave Pauli, City-County Library Director.

Jane Ellis explained the departments were requested to prepare their budget requests based on the premise that things would remain the same as they were in FY'93 and with the assumption that the mill value would be the same as it was in FY'93. The preliminary budgets reflect requests for the special funds at last year's mill values and last year's operational levels. The General Fund reflects last year's operational levels plus those enhancements which had been preliminary approved by the Commissioners. She explained the three spreadsheets which are on file in the Commissioner's Office. The first spreadsheet showed the spending matched against only a portion of the increase in the mill value which recognized that only a portion of the increase in the mill value is simply the result of the State's reappraisal due to new construction. The second spreadsheet reflects what the budget would look like if the entire taxable value is levied against. The third spreadsheet reflected the specific departments within the General Fund. The special funds have not been finalized yet.

The largest exception this year related to changes which happened in the Community Based Services Programs as a result of action of the Legislature.

Cindy Klette explained that the County has historically provided funding for some community based service agencies using a combination of grant monies and tax monies levied in special funds. She explained the spreadsheet which dealt with the Community Based Organizations. The CBO's were advised that resources would remain at last year's levels and that they shouldn't request more than in previous years; enhancements would be looked at very seriously. There were changes in the Poor Fund which was used historically to provide support to service agencies on behalf of indigent people. Due to the State elimination of general relief assistance and general relief medical programs, there has been a huge change. She explained the process followed to determine how to spend the three mills allowed by the State. The Community Based Organizations submitted proposals which were reviewed by the Commissioners.

Jane Ellis clarified the three mills mentioned by Cindy; the three mills has always been levied as part of the twelve mills which has been remitted to the State to support General Assistance Programs. In the past, the State has levied twelve mills from Missoula County. The situation now is that the County will still levy twelve mills; nine of the mills go to the State and three are retained by the County and included in the Poor Fund.

John DeVore said the debt service portion was currently being worked on. Based on the analysis, the full two mills will not have to be levied and the GO issue bond will only need to levy one mill; in FY'94, one and a half mills instead of two and a half mills will have to be levied.

The hearing was opened to public comment; there being none, the hearing was closed to public testimony. The Commissioners were in recess at 3:15 p.m. The public hearing on the proposed FY'94 County budget will continue on July 28th at 7:00 p.m. at the City/County Library.

JULY 28, 1993 (CONT.)

CONTINUATION OF FINAL HEARING ON FY'94 BUDGET

Chair Ann Mary Dussault opened the hearing for public comment at 7:05 p.m. Also present were Commissioners Fern Hart and Barbara Evans. John DeVore, Administrative Officer; Jane Ellis, Fiscal Officer; Cindy Klette, Grants Administrator. Members of the audience in attendance were as follows: Horace Brown, County Surveyor; Dave Pauli, Library Director; Debbie Beaudette of the Historical Museum; Sheila Callahan-Murphy, President of the Board of Directors of the Cultural Exchange; and Don Michaels and Charles Culver.

Jane Ellis gave an overview of the preliminary budget for FY'93-94 and explained the spreadsheets.

Cindy Klette briefly explained the Community Based Organization's funding and particularly the new funding being allocated to Basic Services as a result of Legislative action defunding General Assistance. The County is trying to replace $2 million the State no longer covers. She explained that the County levied a full twelve mills to the State which utilized these funds to operate all of the Federally-mandated programs in addition to State welfare programs. Since the State eliminated all of the non-Federally mandated programs and retained nine mills but allowed the counties to utilize three mills, Missoula County has entered into quite a process of planning and decision-making to serve indigent persons in the County. Proposals were submitted by non-profit organizations which were reviewed and tentative decisions were made. In the past, over $2 million existed for General Relief Assistance and General Relief Medical and burial, etc.; there is no way the County can come even close to covering these programs. The County has tried to develop a continuum of care or assortment of services based on Missoula County's needs assessment. The Commissioners prioritized certain groups of people they felt they really wanted to develop a safety net for in the absence of the State's programs. Not all proposals were funded, including indigent burials.

John DeVore noted that in the Debt Service, one and a half mills instead of two and a half mills will have to be levied.

Sheila Callahan-Murphy, President of the Board of Directors of the Cultural Exchange, requested funding for their calendar project through the Library for $4,000, which had been denied. She urged the Commissioners to reconsider funding the project which will be needed as other programs will be cut in the future. The project will provide resources to find services which are no longer available through County funding; the Calendar project will list all groups and organizations in Missoula who responded to the request for information. The Events Calendar allows the groups and organizations to increase the amount of participation in their programs. She submitted a proposal to the Commissioners which would help fund projects such as the Community Calendar Project that involved the long distance phone company, MCI. This long distance carrier offers a program which operates for the benefit of non-profit organizations. She explained the MCI program which would assist in funding non-profit organizations, using the 5-8% savings the County would receive from MCI. If the County decides not to do this, approximately $6,000 would just go away; if the County does decide to do this, this would allow the County to make an important contribution to the program of their choice.

Debbie Beaudette, representing Bob Brown of the Historical Museum, requested the Commissioners to consider budgeting funding for the trolley restoration. She explained that the Missoula trolley was in very good shape, but is deteriorating. It will cost more in the future if it is not restored now. She said it was her wish to set the trolley by the carousel in Caras Park when it is completed.

Don Michaels, resident of Missoula County, wondered if he had missed some detail that went on before this hearing? He inquired about the bridge budget.

Jane Ellis said there had been a great deal of detail which supports all of this. She explained that each of the funds reflects what the County has done every year for the last five years for the bridge fund.

Don Michaels asked various questions about the junk vehicle fund.

Jane Ellis explained that the funds actually came from the State and its purpose is to remove junk vehicles from around the state; every county in the State has this fund in their budgets. The fund pays for the removal and disposal of the junk vehicles which have been abandoned. She said if Mr. Michaels would like to know more about the various facets of the budget, she could get together with him at her office.

John DeVore explained the Capital Improvement Program is a five week process which begins every year in January. This program identifies all of the departments' capital projects along with their suggested funding source. The program has a rating system which measures one project against another. There is a public hearing held in the spring relative to the CIP.

Charles Culver, resident of Missoula County, suggested that the reason for lack of public involvement and participation in the budget hearings and other governmental activities was due to the fact that no one knows what is going on. A schedule of these meetings should be published in the Missoulian. Perhaps the budget schedule should be printed and advertised at the beginning of the fiscal year so people can have an idea when these meetings will be. He expressed concern relative to the junk vehicle fund. Wrecking yards haul away vehicles for free.

A general discussion ensued relative to the junk vehicle fund. The $38,000 is for administrative costs. It was concluded that the fund was in the budget based on State Statutes. A staff has to be maintained in order to establish whether or not a vehicle is a junk vehicle or not. The State actually reimburses the County after the vehicle is picked up; if the County does not follow the State's procedure, it will not be reimbursed. If the State cuts back further in their budget, the counties may have to become more creative in this area of the budget such as letting out bids to salvage companies for the value of the vehicle.

Charles Culver also brought up the subject of governmental personnel using terms to soften the impact of taxation--such as "grant", "enhancements", etc., when these funds are really being taken from other funds from taxation. These words should be taken out of presentations to the public as they are misleading.

Don Michaels commented that the State apparently reimburses the County for junk vehicles; is it legal for the County to transfer these monies to the General Fund?

Ann Mary Dussault said no. She explained that the State reimburses the County for the actual number of vehicles.

Jane Ellis said the State is very specific about how the revenue is expended. If the County does not spend the monies specifically on the activity of eliminating junk vehicles, then the counties wouldn't receive the funds from the State.

Ann Mary Dussault explained that there is non-tax revenue which is given back to the County in the Attorney's Office budget. They also have a line item of revenue called junk vehicle. In the administrative process, often times the County Attorney must prosecute and is reimbursed for that time. There is no transfer ability.

Barbara Evans commented that it is important to remember that a good share of the money counties have comes from grants which is indeed tax money from another pocket. However, there are grants obtained which are from various foundations, etc., and is not tax money.

Ann Mary Dussault said they are aware of the term "grant creep" where departments would receive grants, then the grants would run out, and then the taxpayer would be asked to continue to subsidize this expense; however, the Missoula County Commissioners do not allow that to occur.

Don Michaels asked about the 12 mills collected for Community Based Organizations by the State; what services are no longer being funded?

Ann Mary Dussault explained that the decision was made by the State Legislature. The State ran general assistance programs for twelve counties in the state. The cost of the programs in these counties exceeded the property tax revenue from 12 mills from the local level. The State paid the costs above the 12 mills. The costs for the Missoula fund was about a $2 million annually. When the State started to cut their budget, they cut that program and eliminated the program from their books which saved them about $10 million annually. However, the State wanted to keep the 12 mills. The counties argued that there would be impacts felt at the local level by the elimination of these programs; the State allowed the local governments to keep 3 mills to design a safety net for affected individuals and populations. The additional money is not new money; it is under local control rather than State control. Significant services have been reduced as a result of the loss of the other revenue.

Fern Hart said General Assistance and State Medical have been cut for indigent people.

Cindy Klette explained that the 9 mills Missoula County is continuing to contribute to the State is being utilized by the State to administer Federally mandated programs such as FDC, food stamps, Medicaid, etc. The non-Federally mandated programs such as general relief assistance and general medical relief that was a direct benefit to an individual is no longer in existence. A mill in this instance represents about $128,000.

Ann Mary Dussault stated that the largest impact of this reduction in general assistance will fall on physicians and hospitals in the community; the second largest impact will be on the cash benefit to the individual.

Barbara Evans said that the funeral homes, who have traditionally been reimbursed for indigent burials, will no longer be reimbursed. These businesses will very likely have to do the same thing that doctors and hospitals do--spread the cost of those who don't pay to those who do pay.

Ann Mary Dussault explained a Statute was passed that allows mortuaries to recover their costs from families. It is reasonable to assume that there were a number of persons (not all) who were given a burial under the indigent burial program where the family probably had the resources to pay; it was just easier to let the State pay. The County, over time, has reduced services; this is one more example where the government just can't carry services anymore.

There being no further testimony, the hearing was closed to public comment.

JULY 28, 1993 (CONT.)

John DeVore explained the budget hearing schedule: Wednesday, August 4th at 1:30 p.m. in Room 201 of the Courthouse Annex; testimony will be taken on the proposal for increased taxes from the State's reappraisal due to new construction will also be heard on August 4th at 1:30 p.m. Every morning at 10:30 a.m. from August 4th through August 9th, the budget hearing process will be continued. The Commissioners will formally adopt the budget on August 9th. The informal process will continue daily until August 9th.

A discussion ensued concerning holding public meetings in the evenings. If the Commissioners could meet in the evenings, perhaps there would be more public involvement. It was concluded that the Board tries to anticipate significant general interest; when there is significant interest, the Board schedules hearings for the evenings such as budget hearings, the Wal-Mart hearing, the proposed obscenity ordinance hearing, and the interim zoning for billboards hearing. In the past, the Commissioners held meetings in the evening once a month, but the public did not attend.

Sheila Callahan-Murphy suggested that the City Council meetings are well attended because the public knows that every Monday, the City holds public meetings.

The Commissioners all agreed that they are available by phone in the evenings, as well as being available during the day; there is a regular Public Meeting held every Wednesday at 1:30 p.m. in Room 201 of the Courthouse Annex.

There being no further comment, the Commissioners were in recess at 8:10 p.m.

The public hearing on the proposed FY'94 County budget will continue on August 4th at 1:30 p.m. in Room 201 of the Courthouse Annex.

JULY 29, 1993

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

Audit List

Commissioners Dussault and Evans signed the Audit List, dated 7-28-93, pages 2-35, with a grand total of $274,237.32. The Audit List was returned to the Accounting Department.

JULY 30, 1993

The Board of County Commissioners met in regular session; all three members were present. During the day, the Commissioners interviewed applicants for the Clerk & Recorder/Treasurer position to fill the unexpired term of Wendy Cromwell who recently resigned.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

AUGUST 2, 1993

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

AUGUST 3, 1993

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Evans attended a Public Information Meeting held at the Target Range School regarding Maclay Bridge.

Audit List

Commissioners Dussault and Hart signed the Audit List, dated August 2, 1993, pages 2-25, with a grand total of $193,674.44. The Audit List was returned to the Accounting Department.

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ending July 20, 1993.

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending July 30, 1993.

DAILY ADMINISTRATIVE MEETING

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

Amendment to County Personnel Policies

The Board of County Commissioners signed an Amendment to County Personnel Policies, Section 601.70, to reflect the change in State law (H.B. 289 passed by the 1993 Legislature) concerning the forfeiture of unused annual leave in excess of twice the annual accrual amount. The Amendment was returned to John Pemberton, Personnel Director, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

AUGUST 4, 1993

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

DAILY ADMINISTRATIVE MEETING

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

> The Commissioners reviewed and adopted the amendments to the Missoula County Investment Policy as proposed by the Investment Advisory Committee, as per the minor changes set forth in the Policy.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Fern Hart and Barbara Evans.

CONTINUATION OF HEARING & DECISION ON: RANGITSCH ADDITION NO. 4 (PRELIMINARY PLAT)

Ann Mary Dussault explained the Commissioners had requested the developers, the residents and the OCD staff to see if any compromise could be reached on the issues discussed at the meeting on July 21, 1993.

Ron Ewart, Planner at the Office of Community Development, explained that a meeting was held between two of the adjacent landowners, Mr. Ferguson and Mr. Graham; Greg Martinsen and Bob Rangitsch; Barb Martens and

AUGUST 4, 1993 (CONT.)

himself; and Horace Brown of the Surveyor's Office. Different alternatives and concerns were discussed; at the end of the meeting, it didn't seem as if anything had been resolved or would be resolved until the meeting before the Commissioners.

A discussion arose concerning the location of the various streets in the area. Is there currently an easement or right-of-way from Humble to and past Glen Drive?

Horace Brown explained that there is a 30-foot easement dedicated for this subdivision which goes all the way to McCauley Drive. There is 60 feet of right-of-way where Rangitsch Addition No. 3 is located; from here, there is 30 feet of right-of-way dedicated from the 1902 plat. The easement turns north and meets up with South Avenue, which is parallel to Glen Drive. There is an easement which connects with Sundown Road.

Barbara Evans made a motion to grant approval for Rangitsch Addition No. 4 based on the findings of fact in the staff report and based on the caveat that Glen Drive not attach to Sundown Road. The motion failed for lack of a second.

Fern Hart moved and Ann Mary Dussault seconded the motion to approve Rangitsch Addition No. 4 based on the findings of fact in the staff report and subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. All driveways shall be paved. Such provision shall be made in the covenants or at the time of construction. Driveway and turnaround plans shall be subject to the approval of the County Surveyor and the Missoula Rural Fire Chief.

4. The area of land shown on the plat above 3136 feet in elevation shall be declared a no-build/ no-excavation zone and shall be shown on the plat as such. Specifically, this includes areas south of the present location of the irrigation ditch as shown on the plat.

5. Lots 6 and 7 shall have a one foot no access strip shown on the north boundary of the lots and both shall access Ringo Drive.

6. Grading, drainage, erosional control, and street plans for Sundown Road and Ringo Drive shall be provided for review and approved by the County Surveyor and the Missoula Rural Fire Chief prior to plat filing. On advice from the County Health Department, a grassy swale treatment system for stormwater treatment with sumps where necessary shall be implemented.

7. Sundown Road and Ringo Drive shall be upgraded and paved to County standards with the platting of this subdivision.

8. Ringo Drive shall have a turnaround subject to Fire Department and County Surveyor approval.

9. Thirty feet of right of way shall be granted along Humble Road on the west side of Lot 1 and along Sundown Road abutting the north side of the subdivision to create the needed 60 foot right-of-way width for county road requirements. This area shall be dedicated as public right-of-way and indicated as such on the plat.

10. The following shall appear on the face of the plat and on each instrument of conveyance: Acceptance for a deed to lot shall constitute assent of the lot owner to waive their right to protest an RSID for the upgrading and paving of Humble Road. Additionally, this waiver shall apply to the installation of curb, gutter, and sidewalk for Humble Road, Sundown Road, and Ringo Drive. The waiver shall run with the land and shall be binding on the transferee, successors, and assigns of the owners of the land depicted hereon.

11. The covenants shall recommend homeowners to obtain a copy of "Living With Wildlife". This brochure is designed to develop a more peaceful coexistence between humans and wildlife. A copy may be obtained from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, or Rural Planning, 200 W. Broadway, Missoula, MT 59802.

12. To satisfy parkland requirements, one-ninth of the subdivision area shall either be dedicated to the public or deeded to a Homeowner's Association, or cash-in-lieu shall be donated to the County Park Fund, as directed by the governing body.

13. A $50 fee per lot shall be required for the purchase of a fire hose.

14. An easement for the ditch at the foot of McCauley's Butte shall be shown on the plat subject to approval by the appropriate irrigation district. Any modification or obstruction of any ditch on the property shall be approved by the district, and shall not cause flooding on adjacent properties.

15. The covenants, in Article IV, Section 15, shall be amended to prohibit the installation and use of woodburning stoves.

The motion carried on a vote of 2-1, with Barbara Evans voting against the motion.

Barbara Evans stated that if Sundown Road was going to attach to a road further on the east and become a road which would serve a large area, there would be some logic to opening the road. The impact of Rangitsch Addition No. 4 should be on this subdivision and not on the folks who did not have notification that this road could be opened. Because the subdivisions in the past were summary plats, there was no notification. She expressed concern relative to the 'dog-leg' in the road; she wished the subdivision could be designed differently so there could be unanimous approval from the Board. Connecting Sundown Road to Glen Drive is unnecessary.

Fern Hart commented that this is one of the poorest designed subdivisions brought in. She stated she was sorry for McCauley Butte, that there was not creativity in the design, that there is not a central septic system and there is no clustering of houses; this is all unfortunate.

Ann Mary Dussault stated she read the proceedings from the previous hearing on the 21st of July, has talked with several of the neighbors, and spent time in the area; she said her assessment is the same as Fern's. She would have liked to have voted against the motion so that the plat could have been redesigned; however, there is no statutory reason which would allow her to do this. This is a poorly designed subdivision given the nature of the area; the design does not look forward to the protection of the natural resources in the area; there are ways to design subdivisions that minimize the kinds of impacts that are going to be felt. Based on the standards, this subdivision is absolutely consistent with the patterns in Missoula County. It is clear that the easements exist.

Barbara Evans asked if there was any chance the developers would reconsider withdrawing the plat and redesigning the subdivision which would cluster development and take into account the special nature of the area? This would get rid of the opposition to the subdivision and would allow for a unanimous vote in the developer's favor.

Bob Rangitsch stated he didn't see any way he could redesign the subdivision without losing two lots and without spending another $40-50,000 on the additional road. He requested that the Commissioners reconsider deleting or amending Condition 4 and 15. Condition 4 is a supplement of what the Planning Board recommended and merely clarifies the altitude at which homes can be built on McCauley Butte.

Ann Mary Dussault stated that the Commission has considered both of these Conditions.

Greg Martinsen stated that the design of the subdivision was given to the staff more than 6 months ago. If there is a problem there should be revisions to the subdivision regulations now. He stated he felt wrongly chastised.

HEARING (CERTIFICATE OF SURVEY REVIEW): BOUNDARY RELOCATION (CROKER) TRACTS 1 AND 2 OF COS 1960; TRACT 3B OF COS 2647 AND TRACT 4C OF COS 2702

Marnie McClain, Deputy County Attorney explained that Michael Croker submitted a request for boundary relocations, but needed to obtain further information. She requested that this matter be continued for one week.

Ann Mary Dussault stated that the hearing for the request by Michael Croker for boundary relocations would be postponed until the Public Meeting on August 11, 1993.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER (WEBER) Tract a12C of COS 2235

Marnie McClain, Deputy County Attorney explained that Charles and Velma Weber submitted a request for a family transfer exemption for Tract a12C of COS 2235. Tract a12C is a four acre parcel located on Highland Drive, south of Lolo. The applicants propose to create a two acre parcel for transfer to their adult daughter, Linda Dameron.

The history of the parcel is as follows: COS 1218 was filed in August 1977 and created 24 parcels over 20 acres in size. COS 2235 was filed in December of 1979 and divided Tract a12 into three parcels. Two parcels were approximately 8 acres in size and the third, Tract a12C was 4 acres in size. In January 1985, COS 3148 was filed, dividing one of the eight acre parcels into two 4 acre parcels.

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

The hearing was opened to public comment.

Fern Hart asked for clarification that Linda Dameron's parents own the four acre parcel and plan to divide the parcel in half. They bought the parcel in May of 1993. The deeds to the two acres will be deeded to Linda Dameron. She asked about the access to the property?

Linda Dameron explained there will be a road easement on the north side of the property. They plan to live on the back side of the property. Her parents just completed their home on the front two acres.

Ann Mary Dussault said the difficulty with this decision is that even though the individuals making this request do not have a history of subdividing, the land clearly has a history of being subdivided. There are some people who use this exemption to evade the subdivision law; the end result is a subdivision. She asked if Linda's parents bought the property with the intention of splitting the land?

Linda Dameron explained that her parents are in the process of moving here from Nebraska to retire and bought the land as a four acre parcel. As they were in the process of building their home, they discussed the possibility of their daughter and her family being close to help them out as they got older.

There being no further comment, the hearing was closed to public comment.

Barbara Evans moved and Fern Hart seconded the motion to approve the request for a family transfer exemption for Tract a12C of COS 2235 for Charles and Velma Weber, based on the finding that the request does not appear to evade the Montana Subdivision and Platting Act and contingent upon the deeds being filed concurrently with the filing of the COS. The motion carried on a vote of 3-0.

HEARING (CERTIFICATE OF SURVEY REVIEW): REVOCATION OF AGRICULTURAL EXEMPTION (HOLT) COS 743

Marnie McClain, Deputy County Attorney explained that Donna L. Holt submitted a request for a revocation of an agricultural exemption for COS 743. This is an approximately one acre parcel located between North Avenue and Edward Avenue. The parcel was created in December 1975. According to the affidavit, the property will be used for residential purposes, along with an adjoining parcel.

This parcel was created in 1975 by COS 743. It has not been subdivided since then.

According to the records kept by the Missoula County Surveyor's Office, the applicant filed COS 1434 in 1978, which created one parcel larger than 20 acres. The applicant has not used any exemptions to the Subdivision and Platting Act.

The hearing was opened to public comment.

Judy Dudley, who plans to purchase the property in question, explained it is their intent to first remove the agricultural exemption and then relocate boundaries so that an adjacent parcel, which is three acres, will have two acres and the parcel in question, which is currently one acre, will become a two acre parcel. No new parcels will be created; the Dudleys want two 2 acre parcels. She explained the location of the roads in the area. There are no existing structures on the property.

A discussion ensued relative to the request. The agricultural exemption must be lifted before the boundaries are relocated. The zoning for the area is C-RR2 (two dwelling units per acre).

Fern Hart asked it were the case that the Holts are requesting the agricultural exemption be lifted from the property; they plan to sell two parcels to the Dudleys. The Dudleys intend to request a boundary relocation so that the one acre lot and the three acre lot will become two 2 acre lots.

Michael Sehestedt, Deputy County Attorney commented that if the Board chooses to lift the agricultural exemption, they could condition it upon the proposed relocation of the common boundary.

There being no further comment, the hearing was closed to public testimony.

Barbara Evans made a motion to approve the request by Donna L. Holt for a revocation of an agricultural exemption for COS 743, contingent upon the relocation of the common boundary. The motion died for lack of a second.

A discussion ensued relative to the process which should be followed. It was concluded that Fern Hart preferred the tracts be two 2 acre parcels; Barbara Evans didn't care whether the boundaries were relocated or not because either way, it didn't create more building sites.

Fern Hart moved and Barbara Evans seconded the motion to approve the request by Donna L. Holt for a revocation of an agricultural exemption for COS 743, contingent upon the approval of the relocation of the common boundary for two 2 acre parcels. The motion carried on a vote of 3-0.

HEARING: PROPOSED INCREASED PROPERTY TAX REVENUE

Chair Ann Mary Dussault opened the hearing for public comment. Also present were Commissioners Fern Hart and Barbara Evans. John DeVore, Administrative Officer; Jane Ellis, Fiscal Officer; Cindy Klette, Grants Administrator; Horace Brown, County Surveyor; Michael Sehestedt, Deputy County Attorney; David Pauli, Library Director; and David Maclay were also in attendance.

Ann Mary Dussault explained that the purpose of today's hearing is to receive testimony relative to a resolution of intention to budget additional property tax revenue in Missoula County.

According to state law (MCA 15-10-203), no local taxing authority may budget an increased amount of ad valorem tax revenue in excess of the property tax revenue it received the previous fiscal year unless it adopts a resolution to budget additional property tax revenue. Prior to adoption of that resolution, the Board of County Commissioners is required to hold a public hearing on the matter. The hearing was duly published in the Missoulian on July 29, and August 4, 1993. The public hearing may be held in conjunction with the tentative budget hearing or any other budget hearing that may be required by law.

The Missoula County Commissioners are proposing to adopt a resolution to budget additional property tax revenue from property taxation by 7.10 percent. The increased revenue results from new construction and increased taxable value. It is anticipated that the County mill levy will not be increased.

David Maclay stated that for years he has paid his taxes without comment; it is high time he commented on the proposed increase in taxes! He commented relative to a letter he sent to the Missoulian dated January 14, 1993 which was not printed; he sent this letter to the elected officials in Missoula. This letter was ignored by everyone. The taxpaying public is virtually captive--they can't do anything about the increase in taxes. The millions of dollars invested in Missoula due of the influx of out-of-staters should be borne by these people. The Commissioners must stop the increasing price of land; taxes and land prices are out of control. The Commissioners have the power to raise taxes--but are they looking at the end result? The Commissioners must take a stand to stop this increase.

There being no further testimony, the hearing was closed to public comment. The hearing on this matter will continue until August 9th at 10:30 a.m.

CONTINUATION OF FINAL HEARING ON FY'94 BUDGET

Jane Ellis explained the spreadsheets; the adjusted number of mills were shown. The Poor Fund reflects the 3 mills that will be kept by Missoula County. She noted the one mill savings from the GO Bond and Debt Service; the Health fund is in at a full 7.3 mills because of the Interlocal agreement between the City and County; the spreadsheets reflect the tentative decisions made so far.

John DeVore noted that the budget is 5.1 mills under the limits set by I-105.

Horace Brown asked about the reduced road fund mills and bridge fund mills. He asked if the mill value is less next year, will the Commissioners put the number of mills back where it was? Is this a permanent reduction in mills? If the mill continues to go down, will the Commissioners freeze the amount of mills the departments can ask for?

Ann Mary Dussault explained that the intent of the budget is to recognize that the value of the mills increased at an unusually large pace due to the reappraisal. The departments were allowed to spend the portion of the mill which would generally be awarded to new construction.

Michael Sehestedt, Deputy County Attorney, said the Commissioners are merely putting a little slack in the line.

Horace Brown said he didn't have any problem with this, but did not want to lose any mills in the long run.

Ann Mary Dussault gave a brief overview of the spreadsheets and graphs explaining where the tax dollar goes; Missoula County total budget comparison by fiscal year; difference in tax dollars between fiscal years 92/93 and 93/94; Missoula County Mill value comparison by fiscal year; number of mills to be levied as compared to the ceiling established by I-105; fiscal year 1993-1994 county-wide levies percent of each fund's share of levy; and general fund levy percent by department for fiscal year 1993-1994. The information is on file in the Commissioner's Office.

There being no further testimony, the hearing was closed.

The Commissioners were in recess at 2:45 p.m. The public hearing on the proposed FY'93 Budget will continue on August 5th at 10:30 a.m. in Room 201 of the Courthouse Annex.

HEARING: (EVENING) PROPOSAL TO ADOPT INTERIM ZONING - BILLBOARDS

The hearing was called to order at 7:10 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Fern Hart and Barbara Evans, and Michael Sehestedt, Deputy County Attorney.

Michael Sehestedt explained there has been a great deal of interest expressed to the Commissioners relative to some sort of regulation controlling billboards in Missoula County. After reviewing various statutory authorities, it appears the only authorization the County has to enact any kind of regulation or limitation on the erection of billboards in Missoula County is under the grant zoning authority given to them by the Legislature. The Commissioners are considering the adoption of interim zoning regulations. He gave a brief overview of the background on interim zoning. Interim zoning is authorized under the Statutes. The Board of County Commissioners begin can the necessary studies and planning necessary for the adoption of permanent zoning which would look at the issue of uncontrolled proliferation of billboards and the series of problems that need to be considered. Under the Montana zoning law and the law nationwide, once the use is established in an unzoned area, it becomes a non-conforming use; even if zoning is subsequently adopted, in the ordinary course of events, all existing planning uses will as a matter of law, continue to exist. All that can be done in the short run is the adoption of the zoning regulations that will prohibit the erection of new or additional non-conforming uses. He said at this point, the Board of County Commissioners would take testimony on the proposed interim zoning regulations. The record will remain open for a certain period of time before the Board makes any kind of final decision.

A question was asked concerning what would constitute a nonconforming sign?

Michael Sehestedt explained that under the proposed interim zoning ordinance, it would prohibit in any currently unzoned part of the County, the erection of an off-premise sign defined as a sign which advertises goods or services at a point other than the premises on which the sign is located. The exceptions are signs not exceeding 32 square feet, signs directing traffic or providing direction to public facilities erected by a governmental agency, or signs warning of hazards. If adopted, it would end the erection of new, off-premise signs other than those limited exceptions. However, off-premises signs or billboards currently in existence within the area covered by the zoning regulations would be considered non-conforming uses and could continue to exist. They would not be directly affected by this regulation. If something happens to the sign such as it was 50% or more destroyed or the owner removed it, then the regulation would prohibit the reconstruction or replacement of the sign.

Ann Mary Dussault opened the hearing to public comment.

Jerry Covault, resident of Missoula County, expressed concern over the negative impacts billboards have on the County. The continuing dialogue by Missoula County residents indicates there are a lot of people who are concerned about what billboards are doing to destroy the scenery of Montana. Billboards steal scenic value of Montana's roadways and imply to visitors that Montana residents don't care about their scenery. Missoula County does not have to be anti-growth or anti-business if they take steps towards limiting billboards; environmental concerns cannot be compromised. The scenic landscapes of Western Montana are too important to the resident's lifestyle and their economy to be sacrificed to billboards. He urged the Commissioners to eliminate billboards from the county roads and highways and to work with other counties in Western Montana to do the same.

Jim Davis, a concerned resident of Missoula County, stated that while Western Montana will experience much growth, this doesn't mean the natural beauty of the area needs to be sacrificed. This is an opportunity to keep the mountain views and keep what makes Montana the last, best place.

Lynn Dickman, resident of Missoula County, commented that she regularly drives from Thompson Falls to Missoula. The signs she passes on Evaro Hill are quite hard to miss; for a two-lane road, the billboards that dwarf the road are unnecessary. These are big city signs in a rural area. It is not right for sign companies to have the right to wreck a person's view of Montana. She suggested that the blue highway signs were in better taste. She urged the Commissioners to have the large billboards taken down.

Ann Mary Dussault stated that many letters have been received relative to this matter and would become part of the official record.

Harry Seibert, resident of Missoula, said Missoula's resources have been degraded over time. Billboards have taken over Montana's highways. He recommended that the Commissioners adopt this ordinance and thanked the Commissioners for hearing this matter. He commented that he worked on planning efforts in the Lake Tahoe basin where big billboards were actually taken down. The effort was well worth it. He requested that the Commissioners institute a program for identifying all existing billboard signs and then put it up to a vote of the people whether or not they want these signs. There is no productive need for these types of signs anywhere.

Denise Llovet, resident of the Evaro Hill area, stated she frequently travels to Missoula. She recently traveled 2,000 miles through Washington, Oregon and British Columbia; there were more billboards from the Missoula County line to her home than the other 2,000 miles she traveled. This is a serious problem in Montana. Not only does Missoula County need this ordinance, but the billboards need to be removed so people can enjoy Montana.

Dr. Carolyn Toleno, a resident of Arlee, commented that the Sierra Club has declared the state of Vermont an endangered state because of their lack of zoning. She didn't want to see this happen to the state of Montana--it is far too beautiful. She stated she has made it a point to boycott all businesses that choose to advertise on billboards.

Wayne Sourbeer, a resident of Evaro for 10 years, protested the number of billboards in the county. Their presence is an affront to the view. Billboards obscure and detract from the beauty of Montana.

Dana Boussard, an artist residing in Evaro, stated that the aesthetics of life and the way one lives are extremely important. She applauded the Commissioners for acting so swiftly to the concerns of the residents. She recommended that the Commissioners work towards approving interim zoning to control billboards. Montana has lost something through the already existing proliferation of billboards. Some of what has made Montana the "last, best place," is already gone. She suggested that the Commissioners do more than institute zoning; the billboards that have already destroyed the beauty of Montana must come down.

Pam Sourbeer, resident of Evaro, stated that as she was traveling to Missoula, there was another billboard going up. She was disgusted by what she called monstrosities and thought they were an eyesore on the landscape. She referred to a publication called, "Scenic America," a non-profit organization dedicated to preserving and enhancing the character of American communities, which quoted representatives from other states concerning billboards. Sign control is also good for business. Business industry and new residents are either attracted or repelled by a community's appearance. Visual enhancement is one of five major steps recommended to a city that is seeking industrial development. The types of signs available that advertise the services at the exit are appropriate. She commented on the cost of the signs to the businesses. She wondered if there was a time limit on the interim zoning?

Michael Sehestedt referred to the Statute which stated, "such interim resolution shall be limited to one year from the date it becomes effective. The Board of County Commissioners may extend the interim resolution for one year, but not more than one such extension may be made." The interim zoning is effective for one year, plus the possibility of a one year extension, for a maximum two year total under interim zoning.

Julia Longacre, resident of Lake County who grew up in Arlee and has commuted regularly to Missoula over the years, stated that she finds it extremely offensive and an infringement upon her rights to have advertising forced down her throat. Advertising is a legitimate business, but there are multiple ways to advertise. These other methods give her the choice to shut the advertising off, or listen to it. A billboard gives the person no choice but to look at it. A person's rights and views should not be taken away. She urged the Board to eliminate billboards from Missoula County. She stated she was much more impressed with a business who advertises on the blue signs along the highway. She thanked the Commissioners for their time and swiftness in hearing the residents' concerns.

Frank White felt that it was appropriate for people to advertise their business; however, it is inappropriate to pollute the visual environment. He stated he would support smaller signs that were done discretely and in an appropriate place. He requested that the signs between Evaro and Missoula be taken down or diminished in size.

Zoltan Balogh, resident of the Arlee area, agreed with the statements made and said the size of billboards in the area are inexcusable. Anyone would rather have an unobstructed view of Montana's scenery than a view of billboards.

Grey Lerner, resident of Arlee, spoke in agreement with making the signs smaller as well as doing away with the existing large billboards.

Bob Yetter, resident of the Evaro area, commented about the "subliminal" effect billboards have on the mind; billboards cannot be avoided--they are a visual obstruction. He stated Missoula County needs to set a precedent for the rest of Montana and begin procedures to eliminate billboards from the County.

Michael Wangen, resident of Montana for the past 20 years, commented about the proliferation of signs from Columbia Falls to Glacier Park, where there aren't any signs. Missoula is fast becoming like this area west of Glacier Park; it is an atrocity! He urged the Commissioners to do away with the signs. It is not a disadvantage to businesses if there are no billboards--if no one has any signs, no one is disadvantaged.

Alice Austin, resident of Missoula for 18 years, strongly supported control of billboards and the previous testimony. She hoped a way could be found to eliminate the existing boards. People can refuse to patronize businesses which place large boards on the landscape and let the businesses know they will not be patronized for this reason. She thanked the Commissioners for hearing the residents' concerns.

Susan VanRooy, resident of Evaro, commented on a particular billboard which was offensive to her personally. If this board was not there, she would be able to enjoy the landscape. She urged the Commissioners to do everything they could to help get rid of these signs.

Jim Dew commented on the junk on Evaro Hill which, as he stated, offended him just as much as the billboards. He commented on the clutter of political signs that appear periodically in Missoula.

Art Magnusson, resident of Frenchtown, commented that the billboards in Missoula County have reached the stage of environmental pollution. He urged the Commissioners to institute a more long-range zoning project. During the last Legislative Session, there was legislation introduced from the Missoula delegation to control billboards. The bill was introduced and supported by Senator Stang; however, there was very little support from the public. He urged those present to support a state law which would put limitations on billboards.

Corrinne Fickes, resident of Missoula County, stated she lived four miles from the Wye at the base of Evaro Hill. She commented that seniors enjoy having billboards on trips to identify services available to them. Billboards are not out of line.

Daphne Jones stated that she will not vote for people who run for office who put their pictures on billboards. The federal government, which includes the National Guard, the US Navy, etc., use taxpayer's dollars to advertise on billboards.

Byron Weber, a teacher from Florence, stated he has noticed the blight of billboards on Highway 93 South near the Blue Mountain area. He wondered if there was any planning that went into the placement of these boards. He supported the elimination of billboards because, as he said, he is offended by them. He wondered if a committee could be appointed to screen billboards. He wondered if the signs couldn't be torn down, could they at least be screened for tastefulness?

Robert Peutzker commented on the billboards which were torn down during the President Johnson era; now the Bonneville Power lines as well as the billboards, are obstructing his view now. He applauded the Commissioner's approach to zoning and controlling these signs. Because Montana is beautiful and because there is rampant growth occurring, it is time to look at controlling billboards by zoning. The Commissioners need to look forward; the people that are coming into the area are coming here due to the quality of the views.

Phyllis Burreson stated that billboards are ruining Montana's beautiful countryside--they are being erected along roadways with little or no regard for environmental impact. This country spends millions each year cleaning up air, water and noise pollution; however, visual pollution created by billboards is being ignored. It is time Western Montana put a stop to this pollution before Montana's environment is ruined. Over the past two years, over 500 cities have enacted regulations to control billboards and several states have passed state-wide controls. She gave some statistics relative to the groups who advocate billboard control or elimination. In 1981, the Supreme Court ruled that a community may constitutionally ban all commercial billboards if it so desires; they can be legally controlled. State highway signs advertise local services, thus motorists are well-informed. 85% of billboards advertise products that have nothing to do with roadside information. Many advertise alcohol and tobacco products. Documentation by some cities who have banned billboards suggests that property values, tourism and aggregate consumption of goods and services goes up, not down. She stated that communities do not have to buy out or compensate the billboard company for the removal of signs because private property is not being taken. An amortization period is a standard course of action. She urged the Commissioners to enact the toughest billboard controls that the law allows.

Dan Kensel commented on the size of the billboards--why do they have to be so big? People are already bombarded by way too much advertising; it has gotten out of hand.

Dr. Pat Robins, an orthopedic surgeon who has lived in Montana for 19 years, said that in discussions with his peers, there is an enormous amount of support for the interim zoning and eventual banning of billboards in Missoula County. He said he is prepared to do all he can in man hours and financial resources to get them removed. He commented on the safety factors of the boards; these signs are meant to grab people's attention when they are traveling at 65 mph. When an airplane is taxiing down the runway at night, it is illegal to have lights on or any other distraction that would interfere with other airplanes taxiing. Billboards are an aesthetic affront and should be abolished from the county.

Joan Shoemaker, a commuter from Lake County to Missoula, commented on a particular billboard which displayed ruby red lips and advertised friendly service at a local motel; she wondered if this is what Missoula County residents wanted visitors to think about when they traveled through the county? Is it a local tire shop's job to welcome visitors to Missoula via a large billboard? Between Missoula and the Wye in the first four miles, one encounters 26 signs. The blue highway signs are totally satisfactory; they advertise where the basic services are located. If a person has a greater need, they would generally look at the Yellow Pages in the phone book--people don't drive around looking for a billboard hoping to get information. The phone book is the most efficient use of one's time. The people of Montana have striven to take control of their land, water and air resources--Montanans need to take control of their view. She thanked the Board for taking action on interim zoning. Montanans do not want huge billboards advertising what is violent, sexually suggestive and subliminal.

Senator Harry Fritz of the Montana State Senate and chief sponsor of the billboard legislation introduced in the last session, said this bill would have brought a quick halt to the rapid proliferation of billboards in Montana. It also set up a time limit for their eventual removal. The enthusiasm of the billboard industry for this measure became apparent as the bill was laid on the table before it was out of the door. It was a classic case of wide support of a measure, but no real power at the center. A group of individuals from across the state wrote letters in defense of

this bill, but couldn't be present to testify. One of the good things to come out of this whole thing is the measure the Commissioners are proposing and the formation of a mailing list of supporters. He said if he is back in the Senate at the next session, he will introduce legislation to regulate and control oversized billboards.

John Ottman commented that he recently had the opportunity to start a business between the Wye and Evaro Hill. He also still had the opportunity to put a sign which identified his business. He said he liked the signs the State put on the highways; however, they are pretty small for seniors wanting information. Perhaps the whole state could be scaled down to the green and blue signs along the roadways so that the battle of the billboard could be done away with. He wondered if a certain size could be agreed upon. He suggested that the County, the State and the Federal governments get together to discuss size limitations on billboards in order to eliminate large billboards.

Virginia Ronhonde said the residents of this state are gifted with magnificent countryside--no one has the right to pollute this. It is an obscenity to place billboards between a person and their view. The Commissioners should take this responsibility very seriously to control billboards.

Senator Jeff Weldon of the Montana State Senate, a resident of the northern edge of Missoula County who commutes to Missoula, said he has been noticing the large billboards springing up recently. He said he thought this was a reaction to the bill introduced in the Legislature, probably in an effort to 'grandfather' the boards. Missoula County is now the second largest county in the state and is growing quickly--the question remains as to how this growth will take place. Steps are necessary to control Montana's environment. He stated he would not patronize businesses who placed advertisements on these billboards.

Liz Gupton, a native of Missoula, but who is currently employed in the Superior area, said she drove in specifically for this hearing because she is concerned about the visual resources in Missoula County. She stated from 9-Mile hill to Missoula, there are approximately 47 billboards. This is a safety hazard and offensive. She commended the Commissioners for trying to control the proliferation of billboards.

Bob Rivey, resident of Evaro, commented about the placement of billboards on Evaro Hill during the last few years. He stated he is accosted at work all day--he doesn't need to be further accosted to and from home. He applauded the efforts of the Commissioners and said he was astounded at the response by the Board. He wondered if the billboards are never filled with advertising, is there a point in time where they could be taken out?

Michael Sehestedt explained that under State regulations, the billboard has to have advertising on it; if it doesn't for a period of six months, then the permit issued by the State lapses and the billboard has to come down. However, "this space for rent" is advertising. Eventually, perhaps because of the tax burden, the owner may take it down to relieve themselves of tax obligation.

Bob Rivey said he is not totally against signs; they do serve a purpose. However, the huge billboards attack Montana's character. Montana residents have done well without people telling them what they need and what they need to see. He referred to several boards that have been done in a tasteful, artistic manner. He challenged the audience to go into these businesses who have the signs and tell them they will no longer patronize their business; it will have an impact.

Michael Jaworsky, Executive Director of the Missoula Area Chamber of Commerce, said what is being discussed is the emotional issue of aesthetics. He said comments he will make tonight will perhaps find more agreement than some may think. The Constitution says that a person can't take someone's property away from them without just compensation. Perhaps the reason there are so many billboards in Montana even after the Act in 1965, it costs about $15,000 to remove a billboard. A community has to make a serious commitment to remove the boards. When the Commissioners first started talking about billboard limitation, the board representing the Chamber of Commerce discussed the following: 1) the board could support billboard size limitations. Most of the billboards in Missoula County are under 300 square feet in size. The sign companies in Missoula who are responsible indicated that they can live with the provisions the Commissioners have discussed; 2) 1000 feet between signs was also discussed and agreed upon by the board as reasonable; and 3) the board discussed a "breather" period to stop the erection of boards and allow time for the community decide how to proceed.

He referred to some comments made previously during the hearing. He said that the restaurant--Ruby's--lip symbol has been part of their advertising even before billboards; nothing sexual should be read into the meaning of this advertising. Vermont was one of the first to ban all off-premises signs--he didn't know what the comment, 'Vermont was under siege' could refer to; it couldn't possibly refer to billboards as they haven't been around for about 20 years. Maine is another eastern state that has banned billboards, yet the state advertises in Massachusetts for tourism. It is necessary to have limits; the debate is what the limits should be. Billboard advertising is a legitimate form of advertising. He said the Chamber of Commerce board would strongly oppose any rollback or elimination of billboards. Billboards are a just, legitimate form of advertising. The Commissioners are moving in the right direction.

AUGUST 4, 1993 (CONT.)

He said he spoke with the Montana Department of Highways who indicated to advertise on the blue signs costs about $150 a month. There are some responsible sign companies in Missoula County who try to follow strenuous guidelines for billboards and signs.

He asked if a non-conforming sign was sabotaged, would the owner be able to put it back up or would they have to subscribe to new legislation? Under State regulations, signs can be repaired.

Ariana Boussard-Reifel, a 12-year old, compared the placement of billboards on the side of roadways to placing a huge brick wall on either side of the road; it blocks people's view of Montana.

There being no further testimony, the hearing was closed to public comment.

Michael Sehestedt explained that the County is acting under the authority to regulate land uses under zoning authorizing legislation. A non-conforming use is any lawful use made of land or buildings at the time the zoning resolution is adopted. Those uses must be allowed to continue, although such use does not conform to the provisions of the zoning resolution. There is the possibility addressed by some of the people even within that language to develop some sort of amortization schedule. This is not currently proposed, but could be a subject of further study in the course of developing permanent regulations. The interim zoning regulation is meant to be a part of and read in conjunction with the general County zoning regulations. If a non-conforming use is 50% or more destroyed, then the use is lost. Less than 50% can be repaired. In a case of sabotage or vandalism where the non-conforming sign was destroyed more than 50%, the owner seeking to replace it would have to seek a variance to the terms of the regulation. No special provision has been made for a non-conforming use which is 50% destroyed by vandalism; it would be treated the same as if a forest fire burned the sign--if it was more than 50% destroyed, the owner would have to seek a variance and if it was less than 50% destroyed, then the owner could rebuild. This is an issue that can be discussed further as the zoning is refined.

A question was asked relative to the ability of the Commissioners to tax the existing billboards.

Michael Sehestedt explained that the taxation is largely governed by State law. At this point, he said he was not clear as to whether or not the property tax people are picking up all the signs or if they are using the taxable value or the market value, the value that sign companies assign to their signs when the time comes for a taking in the course of a highway project or expansion. The signs are taxed as any other property is taxed. They will be valued as any like property is valued. At this point, there are questions as to whether or not the State Department of Revenue is picking up all of the signs and how they are establishing values. If under-used, non-demanded signs are subject to significant taxation, the possibility exists that they will be taken down. How this will work is outside the direct control of the Commissioners.

Ann Mary Dussault explained that tonight's hearing closes this part of the testimony, but the record will remain open for further written comment until 5:00 p.m., Wednesday, August 11th. A decision will be scheduled for the Public Meeting on Wednesday, August 18th at 1:30 p.m. in Room 201 of the Courthouse Annex.

A question was asked concerning the possibility of including the elimination of billboards in the current proposal for interim zoning?

Ann Mary Dussault explained that this would have to be the next step.

Michael Sehestedt said a number of legal questions need to be resolved as to whether or not the enabling legislation that grants the Commissioners their authority to act, gives the County the authority to do an amortization schedule. If it does, there will be a significant investment. A measured approach and careful study rather than delaying the interim regulation would probably be better.

A question was asked regarding existing billboards that are in a dilapidated state and the adoption of the interim zoning.

Michael Sehestedt explained the owners could put it up tomorrow because it is not restricted. However, after adoption of zoning regulations, if the sign was more than half destroyed it couldn't be restored, but the County would have to look for other authority to get them to complete the removal.

Ann Mary Dussault thanked the audience for coming and participating in the hearing.

There being no further business to come before the Board, the Commissioners were in recess at 8:45 p.m.

AUGUST 5, 1993

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

AUGUST 5, 1993 (CONT.)

DAILY ADMINISTRATIVE MEETING

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

Contract

The Board of County Commissioners signed a Contract between the City-County Health Department and the Western Montana Regional Community Mental Health Center, Inc. for the purpose of coordinating comprehensive chemical dependency services including outpatient care, preventive public education services, emergency care and consultation to residents of Missoula County, as per the terms set forth, from July 1, 1993, to June 30, 1994, for a payment up to $76,900 based upon actual funds received from the State for this purpose. The Contract was returned to the Health Department for further signatures and handling.

Quarterly Report

Chair Dussault signed the MCH Block Grant Quarterly Report for the Fourth Quarter (April-June, 1993) for State Fiscal Year '93 (Contract No. 320136). The Report was forwarded to DHES in Helena.

Other items included:

> The Commissioners authorized a refund of the taxes for 1993 in the amount of $39.34 to JoAnne & Charles Brekjern for renewal fees paid in error on a pickup they had sold to another party.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

CONTINUATION OF HEARING ON FY'94 BUDGET

Chair Ann Mary Dussault opened the hearing for public comment at 10:30 a.m. Also present were Commissioners Barbara Evans and Fern Hart. Also in attendance was John DeVore, Administrative Officer; Cindy Klette, Grants Administrator; and Jane Ellis, Fiscal Officer.

There being no testimony, the hearing was closed.

The Commissioners were in recess at 10:31 a.m. The public hearing on the proposed FY'94 Budget will continue on August 6th at 9:30 a.m. in Room 201 of the Courthouse Annex.

AUGUST 6, 1993

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

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming The Book Exchange as principal for warrant #014107, dated June 9, 1993, on the Missoula County General Fund in the amount of $173.02 now unable to be found.

CONTINUATION OF HEARING ON FY'94 BUDGET

Chair Ann Mary Dussault opened the hearing for public comment at 9:30 a.m. Also present were Commissioners Barbara Evans and Fern Hart. Also present was John DeVore, Administrative Officer; Cindy Klette, Grants Administrator; and Jane Ellis, Fiscal Officer.

There being no testimony, the hearing was closed.

The Commissioners were in recess at 9:31 a.m. The public hearing on the proposed FY'94 Budget will continue on August 9th at 10:30 a.m. in Room 201 of the Courthouse Annex.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

AUGUST 9, 1993

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

Swearing In Ceremony

In the forenoon, Chair Dussault conducted the Swearing In of Vickie Zeier, the newly appointed Clerk & Recorder/Treasurer to fill out the term of Wendy Cromwell, who resigned recently.

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Barbara Oehl as principal for warrant #044019, dated June 11, 1993, on the Missoula County High Schools Fund in the amount of $251.54 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1993, between Missoula County and Friends to Youth for the purpose of family-based services for children with severe emotional disturbance (SED) and their families, as per the terms set forth, terminating on June 30, 1994, for a total amount not to exceed $10,000.00, contingent upon receipt of funds from the Montana State Department of Family Services by Missoula County.

Certificate of Survey

The Board of County Commissioners signed a Certificate of Survey to create a tract of land as an agricultural exemption and show a remainder, located in the NW 1/4 Sec. 20, and the SW 1/4 of Sec. 17, T. 17 N., R. 15 W., PMM, Missoula County, with the landowners being Richard C. and Cynthia K. Lewis.

9-1-1 Agreement

Chair Dussault signed an Agreement required by the State 9-1-1/Local Government Services Division of the Department of Administration amending the Missoula and Mineral County 9-1-1 Plan to include the residents of the Petty Creek and Alberton areas in the Missoula 9-1-1 Jurisdiction. The document was returned to Surry Latham in 9-1-1 for further handling.

Other items included:

1) the Commissioners approved a refund of personal property taxes and renewal fees paid in error in the amount of $301.38 to Cynthia & Patrick McAfee; and

2) the Commissioners appointed Ed Redlhammer as a member of the Missoula County Airport Authority to fill the unexpired term of Zane Sullivan through December 31, 1995.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

CONTINUATION OF FINAL HEARING ON FY'94 BUDGET

The hearing was called to order at 10:30 by Chair Ann Mary Dussault. Also present were Commissioners Barbara Evans and Fern Hart, and Jane Ellis, Fiscal Officer.

Ann Mary Dussault noted that this was the time and place the Commissioners had set for taking final comment on the proposed budget. She said the Commissioners would adopt the budget at 3 p.m. The hearing was opened for public comment.

Mary Plumley, representing the Missoula Urban Transportation District, spoke in support of the Specialized Transportation Program, and asked that the Board of County Commissioners consider funding the program at its current level for FY '93-94. She said the Specialized Transportation program provides a very good, useful, and needed service, and is a necessary component of Mountain Line in order to assist them with complying with ADA guidelines.

Tina Wymore, a social worker at Hillside Nursing Home, spoke in favor of the Specialized Transportation program, and said that many of her patients and clients utilize the busses.

Anita Nelson, a user of the busses, and a member of the Advisory Council, spoke in support of the program, and said she utilizes specialized transportation as she is blind and has cerebral palsy, which limits her use of other types of public transportation.

Brad Bernier, a resident of Eagle Watch, spoke in favor of funding Specialized Transportation, and described the services provided to him and to other residents of the group home.

Fern Hart asked Mary Plumley several questions relating to service, ADA guidelines, their clientele, and the Senior Van Service.

Mary Plumley described the service, discussed ADA guidelines and said that Specialized Transportation often goes beyond those guidelines to service clients, and noted that the Senior Van was not wheelchair accessible. She also noted that Mountain Line planned to aggressively market itself to increase revenue, so budget cuts, while uncomfortable, would be mitigated by increased revenue.

A general discussion of fixed routes, past and future funding options, and service ensued.

Mary Plumley noted for the record that needs, service, and costs were going up all the time, and in the future, the company may ask the voters to fund Urban Transportation with a full mill, which is allowed by law.

Ann Mary Dussault asked Mary Plumley if the most severe cases of need in Specialized Transportation came from the MDSC group homes.

Mary Plumley said she was unable to provide that information at this time.

Ann Mary Dussault said that the Specialized Transportation Partnership was created about 5 years ago between the Area Agency on Aging, Missoula County, and Mountain Line to transport those in need of specialized transportation. Missoula County enters into a lot of these "partnerships" in order to provide or initiate needed service. What was intended was for Missoula County to provide seed money until the Federal Government realized their responsibility. In other partnerships, this has happened, and Missoula County then withdraws from those programs in order to begin new partnerships for needed services. For example, she said the Mental Health Intervention Partnership is a need, and Missoula County intends to budget funds there to help that program get started. She noted that Missoula County is, and will remain supportive of persons with disabilities and their needs, and has demonstrated that.

Cindy Klette, Grants Administrator for Missoula County, asked if the Hillside residents were ADA qualified, and if Specialized Transportation continue to provide service to them.

Mary Plumley said that about half were, but she had no numbers with her to substantiate that. She noted that Missoula County has been very supportive of Specialized Transportation, and that the Missoula Urban Transportation Company appreciated their past and continuing support. She said she realized that the Commissioners did not have an easy decision to make, and she did not envy them. She thanked the Commissioners for hearing the comments today.

No one else came forward to speak, and the hearing was closed at 11:10 a.m. The public hearing on the proposed FY'93 Budget will continue on August 9th at 3:00 a.m. in Room 201 of the Courthouse Annex.

CONTINUATION OF FINAL HEARING & ADOPTION OF FY'94 BUDGET

Chair Ann Mary Dussault opened the hearing for public comment at 3:10 p.m. Also present were Commissioners Barbara Evans and Fern Hart. John DeVore, Administrative Officer; Cindy Klette, Grants Administrator; Jane Ellis, Fiscal Officer; Michael Sehestedt, Deputy County Attorney; Horace Brown, County Surveyor; John Merrell, Director of the Office of Community Development; Larry Weatherman, Undersheriff; and Michael Downs, reporter for the Missoulian were also in attendance.

There being no testimony, the hearing was closed to public comment.

Fern Hart moved and Barbara Evans seconded the motion to adopt the County Budget for Fiscal Year 1993-94 as presented. The motion carried on a vote of 3-0

Resolution No. 93-055

The Commissioners signed Resolution No. 93-055, a resolution adopting a budget for Missoula County for Fiscal Year 1993-1994.

RESOLUTION NO. 93-055
ADOPTING A BUDGET FOR MISSOULA COUNTY
FOR FISCAL YEAR 1993-1994

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 1993-1994, as required by law; and

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

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

IT IS HEREBY MOVED, SECONDED, AND CARRIED by this Board of County Commissioners that the resolution be adopted for Fiscal Year 1993-1994, as displayed in Attachments A, and B; and

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

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

WHEREAS, THE DEPARTMENT OF REVENUE has provided the County with a certified value of a mill in each taxing jurisdiction in the County;

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

NOW, THEREFORE, BE IT HEREBY RESOLVED by this Board of County Commissioners that the levies as detailed below be fixed and adopted for Fiscal Year 1993-1994, based on the value of a mill of $133,222 County-wide, and a value of $71,059 outside the city limits of Missoula.

IT IS HEREBY MOVED, SECONDED, AND CARRIED by the Board of County Commissioners "that the resolution be adopted, subject to the foregoing condition," for Fiscal Year 1993-1994 as detailed below:

MISSOULA COUNTY-WIDE FUNDS	MILLS	ATTACHMENT
General Fund	40.22	A and B
Bridge Fund	3.84	
Poor Fund	3.43	
Fair Fund	1.42	
Museum Fund	1.68	
Extension Fund	1.25	
Weed Fund	0.65	
Planning Fund	1.54	
District Court Fund	6.93	
Open Space	0.41	
Mental Health Fund	0.47	
Developmental Disabilities Fund	0.08	
Aging Fund	0.76	
Park/Recreation Fund	0.94	
Risk Management	1.89	
Child Daycare Fund	0.22	
Library	4.48	
SUB-TOTAL	**70.21**	
MISSOULA COUNTY-WIDE DEBT SERVICE		
RSID Revolving	0.48	
G O Issue (Computer)	1.00	
SUB-TOTAL	**1.48**	
TOTAL COUNTY-WIDE & DEBT SERVICE LEVIES	**71.69**	
Road Fund	13.43	
Health Fund	7.30	
TOTAL COUNTY-ONLY LEVY	**20.73**	

RESOLUTION NO. 93-054

The Commissioners signed Resolution No. 93-054, a Resolution increasing revenue from property taxation by 3.56%.

RESOLUTION NO. 93-054

WHEREAS, the Board of County Commissioners of Missoula County has budgeted an increase in revenue from property taxation by 3.56 percent. The increased revenue results from new construction and increased taxable value; and

AUGUST 9, 1993 (CONT.)

WHEREAS, public hearings on the increase were held August 4, at 1:30 p.m. and August 9 at 10:30 a.m. in Room 201 of the Missoula County Courthouse Annex as required by MCA 15-10-203; and notice of the hearings was duly published in the Missoulian newspaper as required by law;

BE IT THEREFORE RESOLVED that the Board of County Commissioners of Missoula County will adopt a budget requiring a levy of 92.42 mills, or $11,039,696, representing an approximate 3.56% increase over last year's property tax levy. Adopted this 9th day of August, 1993.

There being no further business to come before the Board, the Commissioners were in recess at 3:15 p.m.

AUGUST 10, 1993

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

Audit List

Commissioners Dussault and Hart signed the Audit List, dated August 10, 1993, pages 2-21, with a grand total of $93,684.59. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Budget Transfer

The Board of County Commissioners approved and signed the following Budget Transfer for the Sheriff's Department and adopted it as part of the FY'94 budget:

> no. 94-001, a request to transfer $570.00 from the Detectives Small Tools account to the Detectives Capital - Office Equipment account to pay for a desk to replace a broken one (with the transfer coming out of normal operations, not enhancements).

Payroll Transmittal Sheets

The Board of County Commissioners signed the Transmittal Sheets for the following pay periods:

1) #14, pay date of 7-09-93, with a total Missoula County payroll of $435,756.36; and

2) #15, pay date of 7-23-93, with a total Missoula County payroll of $445,786.61.

The Transmittal Sheets were returned to the Auditor's office.

Maintenance Agreement

The Board of County Commissioners signed an Agreement between Missoula County and the Missoula Parks and Recreation Department for maintenance of grounds at the County Courthouse and certain nearby County buildings, as per the items and terms set forth, from July 1, 1993, through June 30, 1994, for total annual compensation of $18,510.00 to be paid in full by October 31, 1993, and by each October 31 thereafter for any renewal.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

AUGUST 11, 1993

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, the Commissioners participated in the Western Montana Fair Parade.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Fern Hart and Barbara Evans.

CONSIDERATION OF: ALLOY LOTS - SUMMARY PLAT

Ron Ewart, Planner at the Office of Community Development, explained that Alloy Lots is a proposed two-lot subdivision on Industrial Road in Momont Industrial Park just north of the Missoula Airport. The parent parcel is

known as Lot 4, Block 2, Momont Industrial Park Phase I. Lot 4 presently covers 1.11 acres; Lot 4A will be .55 acres in size and Lot 4B will cover .56 acres. Industrial Road is a 40-foot wide paved road that fronts the subdivision on the south, and a sewer main lies within this road. Alloy South fronts the property on the west side, where there exists a 6" water main. Momont Industrial Park Phase I covers approximately 28.6 acres, about half of which is vacant at this time. To the north and west are agricultural lands and to the south is the Montana Rail Link railroad, Highway 10 West, and the airport. Bordering to the northeast is Momont Industrial Park Phase II. The zoning district for the area and this project is C-I1, Light Industry.

The Community Development staff recommended that Alloy Lots Summary Plat be approved, subject to compliance with all agency review requirements and the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. A ten foot public utility easement shall be placed on all lot lines.

4. Approach permits shall be applied for and granted before construction.

5. Lot 4A shall access onto Alloy South, which is the least traveled roadway.

6. Grading, drainage, erosion control and driveway plans shall be approved by the County Surveyor.

7. Before connection to the City of Missoula sanitary sewer system, a sewer connection permit shall be obtained and applicable City fees paid. Installation is to be performed by a licensed and bonded contractor. Information regarding depth and location of the line may be verified by the Department of Public Works.

8. The owners of the lots shall waive their right to protest an RSID for the upgrading of Alloy South or Industrial Road. The waiver shall run with the land and shall be binding on the transferee, successors, and assigns of the owners of the land depicted hereon.

Andy Fisher, Eli & Associates, representing the developer, explained that the property has potential office sites. The properties were not selling as one acre lots; they reconfigured the lots as half acre lots.

Fern Hart moved and Barbara Evans seconded the motion to approve the Summary Plat for Alloy Lots based on the staff's recommendation and the Findings of Fact in the staff report and subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. A ten foot public utility easement shall be placed on all lot lines.

4. Approach permits shall be applied for and granted before construction.

5. Lot 4A shall access onto Alloy South, which is the least traveled roadway.

6. Grading, drainage, erosion control and driveway plans shall be approved by the County Surveyor.

7. Before connection to the City of Missoula sanitary sewer system, a sewer connection permit shall be obtained and applicable City fees paid. Installation is to be performed by a licensed and bonded contractor. Information regarding depth and location of the line may be verified by the Department of Public Works.

8. The owners of the lots shall waive their right to protest an RSID for the upgrading of Alloy South or Industrial Road. The waiver shall run with the land and shall be binding on the transferee, successors, and assigns of the owners of the land depicted hereon.

The motion carried on a vote of 3-0.

HEARING (CERTIFICATE OF SURVEY REVIEW): BOUNDARY RELOCATION (CROKER) TRACTS 1 AND 2 OF COS 1960; TRACT 3B OF COS 2647 AND TRACT 4C OF COS 2702

Marnie McClain, Deputy County Attorney, explained that Michael Croker submitted a request for boundary relocations for Tracts 1 and 2 of COS 1960; Tract 3B of COS 2647 and Tract 4C of COS 2702. Tracts 1 and 2 are 20 acre parcels which were created by Michael and Carol Croker in February 1979. Tract 3B is a five acre parcel which was created in 1981 by P. Michael Croker. Tract 4C of COS 2702 is an approximately 10.5 acre remainder created in January, 1992 by Wayne Croker. The applicants currently own Tracts 1 and 2 of COS 1960 and 4C of COS 2702. The applicant's home and shop are currently situated on Tract 1. According to a letter from

the applicant, he needs to sell his existing house in order to pay business and personal debts. He intends to build a smaller house on the property that would remain after the boundary relocations. According to Jim Weatherly of WGM Group, the applicant wishes to reconfigure the three lots to produce a 3.5 acre parcel and a five acre parcel around his existing home on Tract 1. The third remaining parcel would be approximately 42 acres in size. The last boundary relocation would adjust the southern boundary of Tract 3B of COS 2647.

There are currently two one acre parcels located on Tract 1 as a result of mortgage surveys done in 1980 and 1986.

The history of the parcel is as follows: In February 1979, Mike Croker filed COS 1960 which created three 20 acre parcels and an 8.8 acre remainder. In August 1981, Mike Croker filed COS 2647, which divided Tract 3 of 1960 to create a 3.80 acre remainder and a 5 acre occasional sale parcel. In January 1982, C. Wayne Croker filed COS 2702 which divided Tract 4 of COS 1960 into two 5 acre and on 10 acre parcels using the occasional sale and family transfer exemptions. The 10 acre parcel was a remainder. Two one acre mortgage surveys have been filed on Tract 1 by Mike Croker; one in 1980 and one in 1986.

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

The hearing was opened to public comment.

Nick Kaufman, WGM Group, representing Mr. Croker, referred to the three exhibits sent in a letter dated August 5, 1993, from Jim Weatherly of WGM Group, to explain the boundary relocations. He explained there are three lots; there will be three lots when the boundaries are relocated--the boundaries merely change. The purpose of the relocations is to reconfigure and clean up the parcels. An adjacent landowner will be affected by the relocations and would like to have a better shaped lot.

Ann Mary Dussault asked about the two one acre mortgage release parcels; there are actually six lots.

Nick Kaufman said there was a mortgage release done in 1980 and 1988; one was done around the existing home and one around the shop. He said it is Mr. Croker's intent to have three parcels at the finish of this whole transaction; he does not intend to use the mortgage releases.

Marnie McClain suggested that an agreement be obtained from Mr. Croker that the mortgage releases will not be conveyed.

A discussion ensued relative to the purpose of the mortgage release exemption allowed by the Legislature. This exemption has been misused and abused through the years.

Nick Kaufman also suggested an agreement from Mr. Croker which states that he will not misuse or misrepresent the mortgage release exemptions.

Michael Sehestedt, Deputy County Attorney, suggested that there be a covenant with the governing body which stated, "the mortgage release survey would never be used as a deed reference for a subsequent conveyance."

A discussion followed concerning the zoning and Comp Plan in the area; the area is outside of the Zoning District #4 boundary and the Comp Plan calls for one unit per forty acres. The conversation turned to the automobile business Mr. Croker currently owned where he stored old cars and parts. This violation has been taken care of.

Barbara Evans stated this request will probably result in a better configuration for the land.

A discussion ensued relative to the access to the four lots. Nick Kaufman explained the roadway accesses to the lots.

There being no further testimony, the hearing was closed to public comment.

Barbara Evans moved and Fern Hart seconded the motion to approve the request by Michael Croker for boundary relocations for Tracts 1 and 2 of COS 1960; Tract 3B of COS 2647 and Tract 4C of COS 2702, contingent upon the caveat that the mortgage release surveys would never be used as a deed reference for a subsequent conveyance and based on the finding that the request will improve the configuration of the land. The motion carried on a vote of 2-1 with Ann Mary Dussault voting against the motion.

Ann Mary Dussault explained that she voted against the motion because they would be taking two parcels which meet the designation of the Comp Plan, and creating two parcels that don't.

Nick Kaufman said there are four parcels and four building sites; with the mortgage release parcels, there are two additional parcels which have the potential to be created. The Board can approve the request contingent upon Mr. Croker's agreement not to use the mortgage release exemptions; this will create a better situation for the County.

AUGUST 11, 1993 (CONT.)

No new roads are created as well as no new parcels. If this request is denied, then there is the potential for the County to lose something. The mortgage exemptions exist; however, the Commissioners can take the risk away.

Michael Sehestedt agreed with this interpretation.

There being no further business to come before the Board, the Commissioners were in recess at 2:00 p.m.

AUGUST 12, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Dussault was out of the office until noon, and Commissioner Evans was at the Fairgrounds all afternoon.

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Dorine Clifford Davis as principal for warrant #42801, dated 2-01-93, on the District Court Trust Fund in the amount of $75.00 now unable to be found.

Resolution No. 93-056

The Board of County Commissioners signed Resolution No. 93-056, a Resolution of Intention to Create RSID No. 8455 for the purpose of construction of a sewer main extension along Curtis Street and Carol Ann Court in the Hansen Addition, Missoula County, setting the hearing date for September 1, 1993, at 1:30 p.m.

AUGUST 13, 1993

The Board of County Commissioners did not meet in regular session; Commissioner Dussault was out of the office all day, and Commissioner Evans was at the Fairgrounds during the day.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

AUGUST 16, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between the City-County Health Department and the Missoula County Sheriff's Department for participation of the Sheriff's Department officers in the Driving Under the Influence (DUI) Enforcement Team from August 1, 1993, through June 30, 1994, as per the items and terms set forth, for a total payment up to $4,000.00. The Contract was returned to the Health Department for further signatures and handling.

Agreement

Chair Dussault signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences (DHES) for the purpose of enhancing the development of infants and children in Missoula County through the "Follow Me" project, as per the stipulations set forth, for the period beginning July 1, 1993, through June 30, 1995, for total payments by DHES not to exceed $52,000.00 for the two-year period. The Agreement was forwarded t DHES in Helena.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

AUGUST 17, 1993

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

Audit List

Commissioners Dussault and Evans signed the Audit List, dated 8-17-93, pages 2-23, with a grand total of $110,715.11. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Contracts for Sale of Tax Deed Property

The Board of County Commissioners signed two Agreements between Missoula County and R. C. Hobbs for the purchase of property taken by tax deed, Lot 1 and Lot 2 in Block 9, Wapikiya Addition No. 3, for a purchase price of $15,000.00 each, as per the terms and payment schedule set forth. The Commissioners also signed Warranty Deeds to be delivered to the Buyer upon payment in full. The documents were returned to Mike Sehestedt, Deputy County Attorney, for further signatures and handling.

Agreement

The Board of County Commissioners signed an Agreement for Professional Engineering Services between Missoula County and Professional Consultants, Inc. for the design and construction of a sanitary sewer main extension to serve Block 1 of Maclay Addition (RSID No. 8454), as per the terms set forth, for a total payment of $3,500.00. The Agreement was returned to Jesse Sattley, RSID Coordinator, for further handling.

Audit Contract

Chair Dussault signed a Contract between Missoula County and Elmore and Associates, P.C. for the period of conducting a financial statement audit of the County for Fiscal Year ending June 30, 1993, as per the items and terms set forth, for a total price of $45,000.00. The Contract was forwarded to Paul Sepp at Elmore and Associates for further signatures and handling.

Other items included:

> The Commissioners approved a request from Surveyor Horace Brown to hire a full-time person (Operator Position) to do the roadside mowing, the CMAQ work for street paving, snow plowing and sanding as needed; the position is funded to do the CMAQ road upgrading and the funds for the program are forthcoming.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

AUGUST 18, 1993

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

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Report of Sheriff Doug Chase showing the items of fees and other collections on account of civil business in Missoula County for month ending July 30, 1993.

DAILY ADMINISTRATIVE MEETING

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

Amendment to Operating and Financial Plan

Chair Dussault signed Amendment No. 1 to the Operating and Financial Plan signed on April 16, 1993, between Missoula County and the Lolo National Forest for reimbursable services requested by the Forest Service, for the purpose of increasing the Operating and Financial Plan for the Missoula County Sheriff's Department by $824.04 to pay for seven (7) County Sheriff Deputies to be used for security and protection of Federal dignitaries at the Ninemile Ranger Station on August 21, 1993. The Amendment was returned to Don Morman in the Sheriff's Department for further signatures and handling.

Right-of-Way Easement

The Board of County Commissioners signed a Right-of-Way Easement, whereby Missoula County grants Montana Power Company a 15-foot easement located within a 30-foot private roadway easement located within Tract "A" Certificate of Survey No. 2969, located in T. 12 N., R. 20 W., PMM upon which to construct, maintain, replace and remove a natural gas line, electric power line, communications system and necessary appurtenances under the above described property, as per the terms set forth. The Easement was returned to Herb Atkinson at Montana Power Co. in Butte.

Extension Letter

The Board of County Commissioners signed a letter to Gordon Sorenson of Sorenson Engineering approving a 180-day filing extension for Bitterroot Meadows Phase III, making the new filing deadline February 23, 1994.

Labor Agreement

The Board of County Commissioners signed Addendum "B" (Machinists Unit) and Schedule "A" (Class Description of Items in Classification and the Hourly Wage Rate) to the Agreement between the Teamsters Union - Road Dept. and Missoula County for the period from July 4, 1993 through June 30, 1994, as per the items set forth. The Agreement was returned to John Pemberton, Personnel Director.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and Geodata Services, Inc., Kenneth Wall, President, for the purpose of providing a digital geographic information system database and conducting geographic information system analysis and providing digital map viewing training to assist County planners conducting the Cumulative Effects Carrying Capacity Study, as per the items and terms set forth, with these services to be completed by November 19, 1993, with total payments for the products and services specified not to exceed $37,383.00.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order by Chair Ann Mary Dussault at 1:35 p.m. Also present were Commissioners Fern Hart and Barbara Evans.

FINAL DECISION ON: REQUEST TO VACATE A PORTION OF DEEP CREEK ROAD (POSTPONED FROM JULY 14TH)

Michael Sehestedt, Deputy County Attorney, explained that Deep Creek Road is an alleged County road extending generally up Deep Creek, which is located off the end of old Harper's Bridge. The undisputed portions of the road are shown on a GLO map. As a result of litigation between two private parties, claim was made that Deep Creek Road was a county road and substantial evidence was produced that it appeared as record as a maintained county road in an old road plat book. The principal parties resolved their dispute as to access and a petition was filed requesting the Commissioners to vacate whatever claim the County might have to a county road in the upper portion of the Deep Creek drainage. Hearings were conducted on June 16th, June 30th and July 14th of this year and a number of interested parties--the State Department of Lands, the Forest Service, the Department of Fish, Wildlife and Parks, and some other property owners in the area--appeared and produced further evidence of public use in the past and requested that the County not vacate the road. The Commissioners first asked the property owners if they could get together and come to some agreement; that went nowhere. Subsequently, the County Surveyor met with the Forest Service and developed an agreement to transfer the County's interest in this roadway to the Forest Service for their administration as part of the National Forest road network. This has been accomplished between the County Surveyor and the Lolo National Forest. The matter of whether or not the County should vacate the roadway is before the Commissioners today.

He explained that in the interim, a letter was received from the counsel of one of the parties involved who was quite insistent that there was a public roadway while litigation was pending. They have now taken the position that this was merely a legal theory and that the County should reconsider whether or not the road exists at all.

Fern Hart said the County will not be vacating the road; the County will still retain some oversight.

Michael Sehestedt explained that if the Commissioner's decision is not to vacate the road, then the County will retain whatever road right-of-way exists from the area for which vacation is sought. If the petition for vacation is granted, then the County will not have any public road right-of-way beyond the end of the GLO road. If the Commissioners deny the petition and proceed with the agreement with the Forest Service, the

right-of-way, if any, will be the County's; the Forest Service will be responsible for development and maintenance of the road should this occur at some point in the future.

Fern Hart moved and Barbara Evans seconded the motion to deny the request for vacation of Deep Creek Road and maintain the letter of agreement with the Forest Service with respect to the right-of-way of Deep Creek as follows:

> The intent of this Letter of Agreement is to document the agreed on procedure between Orville L. Daniels representing the Forest Service and Horace Brown representing Missoula County with the concurrence of the Missoula County Commissioners on the management of the Deep Creek Access Route across Sections 7, 8, and 18; T13N, R21W, P.M.M.
>
> The following are items agreed upon:
>
> 1. In cooperation with the County Surveyor in locating the Access Route, the Forest Service will mark the Access Route on the ground.
>
> 2. The Forest Service will provide signs informing the public of walk-in access and respect for private lands.
>
> 3. The access route will be maintained by the Forest Service.
>
> 4. The access route will be added to the National Forest Transportation system.
>
> 5. Any proposed relocation of the access route by the private landowners will be approved by the County Surveyor and the Forest Service and documented by the landowner granting a right-of-way easement.
>
> 6. The Deep Creek Access Route will be added to Schedule A of the Agreement with Missoula County dated March 27, 1967.
>
> 7. The management needs for this area will be reviewed yearly at the time that Schedule A is updated and those needs reflected on Schedule A.

The motion carried on a vote of 2-1, with Ann Mary Dussault voting against the motion.

DECISION ON: PROPOSAL TO ADOPT INTERIM ZONING - BILLBOARDS

Michael Sehestedt, Deputy County Attorney, explained that there was a public hearing on August 4, 1993 and a two week comment period. As a result of those comments, he suggested changes to the proposal. The definition of off-premise signs has been changed to reflect the regulations directed only towards signs associated with commercial activities and eliminated the exception for large signs warning of hazards; a 32 square foot sign should be sufficient to warn of hazards. The reason for the changes was an attempt to pass the regulations constitutionally under the First Amendment. The Supreme Court clearly authorizes a distinction between off-premise and on-premise signs and says that a county can regulate commercial speech and limit it only to off-premise. However, the Court felt that any regulation of signs which carried other than commercial speech, such as a picture of a politician, 'an urge to pray', or advocacy of some other non-commercial position, which are protected by the First Amendment. The regulations are limited strictly to commercial activity. Another significant change is the deletion of the exception for signs warning of hazards.

Barbara Evans said a Gateway Plan is in the process of being developed, including restrictions for entrances into town with Reserve Street as the major focus. Included in the sample to do this, are sign regulations that may be different from the proposed sign ordinance. If these restrictions are adopted, which may be more restrictive than the proposed sign ordinance, will this be a problem?

Michael Sehestedt explained that the Reserve Street corridor, pretty much in its entirety, is already zoned and outside the coverage of this particular zoning proposal which is directed solely at unzoned areas of the County. Even if this were not so, this is proposed as interim zoning. Implicit in the proposal is the commitment of the Commissioners to engage in requisite studies and proposals leading to the adoption of permanent zoning. In the situation Barbara Evans described, it might be that the permanent zoning for that area comes ahead of permanent zoning elsewhere. This will not create a problem.

Ann Mary Dussault explained that the public comment period was closed August 11th. All of the communications received will be entered into the official public record. The purpose of today's meeting is to make a decision on the proposed interim zoning.

Barbara Evans said the Board has received "beaucoup" letters on this subject--with one exception, all were in favor of the passage of the interim zoning.

AUGUST 18, 1993 (CONT.)

Fern Hart moved and Barbara Evans seconded the motion to adopt as an additional section to general county zoning regulations, interim zoning for billboards for Missoula County, excluding those areas already included in an existing zoning district, after due notification and public hearing and receipt of testimony, as follows:

A. Intent. This district limits the erection of off-premises signs to those areas which have been designated as industrial or commercial through the zoning process.

B. Definitions.

(1) Off-premises signs - A sign not associated with the activity of the lot or tract upon which it is located and which advertises the goods and services of, or location of, or direction to a commercial activity located elsewhere.

C. Prohibition of Off-Premise Signs.

(1) Except as permitted in (2) below the erection of off-premise signs is prohibited in any part of the district.

(2) The following off-premise signs are permitted:

(i) signs not exceeding 32 square feet.

(ii) signs directing traffic or providing direction to public facilities erected by a governmental agency.

D. District Description.

(1) General - All of Missoula County excluding those areas already included in an existing zoning district.

(2) Legal.

The motion carried on a vote of 3-0.

Barbara Evans explained that some sign companies may have already applied for sign permits, but have not yet erected the sign. The passage of the interim zoning does not mean there won't be a few more signs going up. A letter should be sent to the State of Montana informing them of the Commissioner's action, and requesting that any future submitter of requests for sign permits be accountable to Missoula County's sign regulations.

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

AUGUST 19, 1993

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

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #16, pay date of August 6, 1993, with a total Missoula County payroll of $439,439.97. The Transmittal Sheet was returned to the Auditor's Office.

AUGUST 20, 1993

The Board of County Commissioners met in regular session in the afternoon; a quorum of the Board was present. Commissioner Hart was in Libby attending a meeting of the Mental Health Board, and Commissioner Evans was out of the office until noon.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

AUGUST 23, 1993

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

Indemnity Bonds

Chair Dussault examined, approved, and ordered filed the following Indemnity Bonds:

1) naming Selbys Essco as principal for warrant #247363, dated 6-2-93, on the Missoula County Road Fund in the amount of $93.95 now unable to be found; and

2) naming Holiday Inn - Billings Plaza as principal for warrant #44037, dated 6-11-93, on the Missoula County High Schools Fund in the amount of $392.12 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1993, between Missoula County and Missoula Community Access Television for the purpose of sponsoring a cultural and aesthetics project entitled "Media Arts in Education", as per the terms set forth, for 24 months terminating on June 30, 1995, for a total amount of $7,500.00, with the funding contingent upon receipt of funds for Montana Arts Council Cultural and Aesthetics Grant, Number 578, by Missoula County.

Resolution No. 93-057

The Board of County Commissioners signed Resolution No. 93-057, a Budget Amendment for the Sheriff's Department for FY'94, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Budget
Forest Service Patrol - Salaries 1000-300-420181-111	$ 824.00

Description of Revenue	Revenue
USFS Contract 1000-300-342013	$ 824.00

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and CRSS Civil Engineers of Denver, CO for the purpose of completing a Preliminary Engineering Design Report for Maclay Bridge, as per the provisions and terms set forth, for a total payment for services in the amount of $150,000.00.

Other items included:

The Commissioners affirmed the decision made by the Missoula County Employee's Combined Campaign Committee not to include the American Cancer Society and Montana Community Shares in the 1993 Missoula County Campaign.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

AUGUST 24, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Jack I. and Billie L. Nelson for the purchase of the triangular parcel and the northeast corner of vacated Cooley Street at Bulwer, legally described as that part of Tract 29, Supplemental Plat of School Addition lying South of railroad right-of-way, plus the North 1/2 of vacated Cooley Street adjoining subject property, for a total purchase price of $13,950.00, contingent upon the special provisions set forth in the Agreement. The Agreement was returned to General Services for further handling.

Memorandums of Agreement

The Board of County Commissioners signed Memorandums of Agreement (34), dated July 1, 1993, between Missoula County and the following community based organizations:

1) Partnership Health Center - whereby the County will purchase basic needs assistance for indigent residents of Missoula County, as per the terms set forth, for a total amount of $76,327.00, through June 30, 1994;

2) Friends to Youth - whereby the County will purchase family-based services for children with severe emotional disturbance (SED) and their families, as per the terms set forth, for a total amount of $10,000.00, through June 30, 1994, contingent upon receipt of funds from the Montana State Department of Family Services by Missoula County;

3) Women's Place - whereby the County will purchase substance abuse prevention services in Missoula County, as per the terms set forth, for a total amount of $4,400.00, through June 30, 1994, with funding contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County;

4) YWCA Domestic Violence Assistance Center - whereby the County will purchase comprehensive services for victims of domestic violence in Missoula County, as per the terms set forth, for a total amount of $11,000.00, through June 30, 1994, contingent upon receipt of Montana Department of Family Services Grant Funds by Missoula County;

5) Missoula Child and Family Resource Council - whereby the County will purchase substance abuse prevention services in Missoula County, as per the terms set forth, for a total amount of $6,750.00, through June 30, 1994, contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County;

6) Community Care, Inc. - whereby the County will purchase alcohol and other substance abuse prevention services for youth in Missoula County, as per the terms set forth, for a total amount of $25,334.00, through June 30, 1994, contingent upon receipt of Montana Board of Crime Control Grant Funds;

7) Friends to Youth - whereby the County will purchase counseling services for victims of incest and their families, as per the terms set forth, for a total amount of $5,000.00, through June 30, 1994, contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County;

8) Women's Place - whereby the County will purchase crisis intervention, counseling and advocacy services for victims of battering, sexual assault, rape and other types of personal violence in Missoula County, as per the terms set forth, for a total amount of $10,000.00, through June 30, 1994, contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County;

9) YWCA Domestic Violence Assistance Center - whereby the County will purchase crisis intervention, shelter and related services for victims of domestic violence in Missoula County, as per the terms set forth, for a total amount of $5,398.00, through June 30, 1994, contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County;

10) Extended Family Services - whereby the County will purchase services for children who are victims of abuse and neglect in Missoula County, as per the terms set forth, for a total amount of $25,000.00, through June 30, 1994, contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County;

11) Missoula Aging Services - whereby the County will purchase planning, coordination, and delivery of Aging Services programs in Missoula County, as per the terms set forth, for a total amount of $95,500.00, through June 30, 1994;

12) Seeley Lake Community Council - whereby the County will purchase services which would advance and promote the interests and welfare of the residents of the Seeley Lake community in Missoula County, as per the terms set forth, for a total amount of $1,000.00, through June 30, 1994;

13) Friends to Youth - whereby the County will purchase substance abuse prevention services in Missoula County, as per the terms set forth, for a total amount of $4,400.00, through June 30, 1994,, contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County;

14) Child Care Resources, Inc. - whereby the County will purchase technical assistance and training to child care providers to better meet the developmental needs of young children; and to protect, promote, maintain and improve the health of children in day care settings in Missoula County, as per the terms set forth, for a total amount of $31,000.00, through June 30, 1994;

15) Missoula Life-Skills Pre-Release Center Community Service Project - whereby the County will purchase a Community Service Program in Missoula County,, as per the terms set forth, for a total amount of $6,000.00, through June 30, 1994, contingent upon receipt of Board of Crime Control Funds by the Missoula Life-Skills Pre-Release Center;

16) Western Montana Comprehensive Developmental Center (CDC) - whereby the County will purchase developmental evaluation and treatment services for children in Missoula County, as per the terms set forth, for a total amount of $12,350.00, through June 30, 1994;

17) Missoula Youth Homes, Inc. - whereby the County will purchase substance abuse prevention services in Missoula County, as per the terms set forth, for a total amount of $22,000.00, through June 30, 1994, contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County;

18) Women's Place - whereby the County will purchase comprehensive services to victims of domestic violence in Missoula County, as per the terms set forth, for a total amount of $20,000.00, through June 30, 1994, contingent upon receipt of Montana Department of Family Services Grant Funds by Missoula County;

19) Women's Opportunity and Resource Development, Inc. (WORD) Futures Program - whereby the County will purchase basic needs assistance for indigent residents of Missoula County, as per the terms set forth, for a total amount of $22,341.00, through June 30, 1994;

20) Women's Opportunity and Resource Development (WORD Inc.) Supplemental Security Income Transition Program (SSIT) - whereby the County will purchase basic needs assistance for indigent residents of Missoula County, as per the terms set forth, for a total amount of $160,034.00, through June 30, 1994;

21) The International Choral Festival - whereby the County will sponsor a cultural and aesthetic project by the International Choral Festival, as per the terms set forth, for a total amount of $8,000.00, through June 30, 1995, contingent upon receipt of funds from the Montana Arts Council;

22) Montana Chamber Orchestra - whereby the County will sponsor a cultural and aesthetic project by the Montana Chamber Orchestra, as per the terms set forth, for a total amount of $4,000.00, through June 30, 1995, contingent upon receipt of funds from the Montana Arts Council;

23) Missoula Children's Theatre - whereby the County will sponsor a cultural and aesthetic project by the Missoula Children's Theatre,, as per the terms set forth, for a total amount of $40,000.00, through June 30, 1995, contingent upon receipt of funds from the Montana Arts Council;

24) Missoula Urban Transportation District (MUTD) Specialized Transportation Services - whereby the County will purchase specialized transportation services for mobility-impaired residents of Missoula County, as per the terms set forth, for a total amount of $10,000.00, through June 30, 1994, and this Agreement replaces the Interlocal Agreement of December 1987;

25) Western Montana Regional Community Mental Health Center -whereby the County will purchase mental health services for residents of Missoula County, as per the terms set forth, for a total amount of $47,000.00, through June 30, 1994;

26) Missoula Y.W.C.A. - whereby the County will purchase basic needs assistance for indigent residents of Missoula County, as per the terms set forth, for a total amount of $16,500.00, through June 30, 1994;

AUGUST 24, 1993 (CONT.)

27) Poverello Center - whereby the County will purchase basic needs assistance for indigent residents of Missoula County, as per the terms set forth, for a total amount of $12,000.00, through June 30, 1994;

28) Missoula Child and Family Resource Council - whereby the County will purchase services to benefit victims of child abuse and neglect in Missoula County, as per the terms set forth, for a total amount of $5,000.00, through June 30, 1994, contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County;

29) The Salvation Army - whereby the County will purchase basic needs assistance for indigent residents of Missoula County, as per the terms set forth, for a total amount of $12,000.00, through June 30, 1994;

30) Hellgate Writers, Inc. - whereby the County will sponsor a cultural and aesthetic project by the Hellgate Writers, Inc., as per the terms set forth, for a total amount of $13,000.00, through June 30, 1995, contingent upon receipt of funds from the Montana Arts Council;

31) Missoula Food Bank - whereby the County will purchase basic needs assistance for indigent residents of Missoula County, as per the terms set forth, for a total amount of $16,000.00, through June 30, 1994;

32) Missoula Cultural Exchange - whereby the County will sponsor a cultural and aesthetic project by the Missoula Cultural Exchange, as per the terms set forth, for a total amount of $10,000.00, through June 30, 1995, contingent upon receipt of funds from the Montana Arts Council;

33) Missoula Developmental Service Corporation (M.D.S.C.) - whereby the County will purchase special assistance for adults with severe developmental disabilities in Missoula County, as per the terms set forth, for a total amount of $2,000.00, through June 30, 1994; and

34) University of Montana Student Health Services - whereby the County will purchase crisis intervention, counseling and advocacy services for victims of sexual assault, rape and other types of personal violence in Missoula County, as per the terms set forth, for a total amount of $6,000.00, through June 30, 1994, contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County.

The Memorandums of Agreement were returned to Cindy Klette, Grants Coordinator, for further handling.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1993, between Missoula County and the City of Missoula represented by the City Attorney's Office, whereby the City will purchase advocacy services for victims of crime and education/training services regarding crime victims' needs and services from Missoula County through its Crime Victims' Advocate, as per the terms set forth, for a total payment by the City in the amount of $3,739.00, plus in-kind of $1,626.00 provided by the City to the Advocate, through June 30, 1994, contingent upon receipt of grant funds from the Montana Board of Crime Control by Missoula County. The Agreement was returned to Cindy Klette, Grants Coordinator, for further signatures and handling.

Other items included:

The Commissioners denied a request from Jim Harris of RSVP to have the County help with some of the costs for renovating the RSVP Deli, which is located in the Courthouse Annex.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

AUGUST 25, 1993

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Dussault was out of the office all afternoon. In the forenoon, Commissioner Hart attended the Groundbreaking Ceremonies for the City's new fire station #4.

DAILY ADMINISTRATIVE MEETING

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

AUGUST 25, 1993 (CONT.)

Plat

The Board of County Commissioners signed the Plat for O'Brien Creek Meadow No. 2, Phase 1, a subdivision located in the NE 1/4 of Section 34, T. 13 N., R. 20 W., PMM, a gross area of 6.82 acres, with the owner of record being John H. Diddel.

Resolution No. 93-058

The Board of County Commissioners signed Resolution No. 93-058, a resolution accepting an easement from Dennis Austin for public road and all other public purposes, located in a portion of Lot 128, Orchard Home Company's Addition No. 6, lying in the NW 1/4 of Section 35, T. 13 N., R. 20 W. PMM, Missoula County, for the Sundown Road Cul-De-Sac.

Resolution No. 93-059

The Board of County Commissioners signed Resolution No. 93-059, a resolution accepting an easement from Briggs M. Austin, Dennis Austin, and Ellen Cox, as Trustees of the Briggs M. Austin Revocable Trust dated November 11, 1987, for public road and all other public purposes, located in the NE 1/4 of Section 34, T. 13 N., R. 20 W. PMM, Missoula County, for the Sundown Road Cul-De-Sac.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Acting Chairman Barbara Evans. Also present was Commissioner Fern Hart. There being no business to come before the Board, the Commissioners were in recess at 1:31 p.m.

AUGUST 26, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Dussault attended a MACo Board Retreat in Forsyth, MT August 26th and 27th.

Audit List

Commissioners Evans and Hart signed the Audit List, dated August 25, 1993, pages 2-37, with a grand total of $88,877.30. The Audit List was returned to the Accounting Department.

Indemnity Bond

Acting Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Cathy Donaldson as principal for warrant #47385, dated July 26, 1993, on the District Court Trust Fund in the amount of $130.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-060

The Board of County Commissioners signed Resolution No. 93-060, a Resolution creating RSID No. 8454 for the purpose of constructing a sanitary sewer main extension to serve Block 1 of Maclay Addition, Missoula County, as per the items set forth.

Resolution No. 93-061

The Board of County Commissioners signed Resolution No. 93-061, a budget amendment for FY'94 for the Sheriff's Department, including the following expenditure and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Budget
Overtime - 1000-300-420180-120	$3,000
Description of Revenue	**Revenue**
STEP Grant - 1000-300-333095	$3,000

AUGUST 26, 1993 (CONT.)

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit, whereby the County agrees to permit David Arthur Holy of 5907 Helena Drive to encroach upon a portion of Patty Ann Drive right-of-way adjacent to the East 135 feet of the North 200 feet of Lot 44, Dinsmore's Orchard Homes Addition No. 4, with the encroachment limited to the existing building, effective for a period not to exceed ten years, renewable at the option of the County, as per the terms set forth.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

AUGUST 27, 1993

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

AUGUST 28, 1993

On Saturday morning, Commissioner Hart gave the opening remarks at the Nature Conservancy Meetings being held at the Holiday Inn.

AUGUST 30, 1993

The Board of County Commissioners did not meet in regular session. Commissioner Dussault was out of the office all day, and Commissioner Evans was on vacation the week of August 30th through September 3rd.

AUGUST 31, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Northern Rockies Medical Services, an independent contractor, for the purpose of qualified clinical laboratory directorship and consultation to achieve initial compliance with CLIA requirements and maintain compliance thereafter, as per the terms set forth, commencing August 16, 1993, and concluding June 30, 1994, for a total payment of $2,900.00. The Contract was returned to the Health Department for further signatures and handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and the City of Missoula Police Department for the purpose of participation of Missoula City Police officers in the Driving Under the Influence (DUI) Enforcement Team, as per the items and terms set forth, from August 1, 1993, through June 30, 1994, for a total payment up to $3,000.00. The Contract was returned to the Health Department for further signatures and handling.

Interlocal Agreement

The Board of County Commissioners signed an Interlocal Agreement between Missoula County and the Department of Justice, the Department of Corrections and Human Services, for the purpose of providing for payment by the State Agencies of the costs of inmate medication, medical services, or hospitalization incurred after confinement in a detention center and the reasonable costs of such confinement, excluding capital construction costs, for those inmates confined in the Missoula County detention center who have been arrested by law enforcement officers employed by the State agencies, as per the items and terms set forth, from July 1, 1993, until June 30, 1995, with payment for confinement at $38 per day in FY'94 and $40 per day in FY'95. The Agreement was returned to Mike O'Hara in the Sheriff's Department for further handling.

AUGUST 31, 1993 (CONT.)

Letter of Agreement

The Board of County Commissioners signed a Letter of Agreement between Missoula County and the Montana Public Employees Association Unit - #2 Nurses, dated August 13, 1993, whereby the parties agree that in addition to the provisions of Article 34, Term of Contract, of the collective bargaining agreement between the parties of July 1, 1992 to June 30, 1994, Article 10, Compensation, Section 12, shall be subject to negotiations between the parties effective upon the finalization and adoption of "on-call" protocols by the Employer, Missoula County. The Agreement was returned to John Pemberton in the Personnel Office for further handling.

Letter of Agreement

The Board of County Commissioners signed an Agreement between Missoula County and Local Unit Number One the Montana Public Employees Association, Inc. for the purpose of defining the wages, hours and other working conditions of the employees represented by the Association, as per the items set forth, for the period from July 1, 1993, through June 30, 1995. The parties agree that in addition to the provisions of Article 32, Term of Contract, of the collective bargaining agreement of July 1, 1993, to June 30, 1995, that Article 10, Class Specifications, Sections 1 and 2, shall be subject to negotiations between the parties effective July 1, 1994. The Agreement was returned to John Pemberton in the Personnel Office for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

SEPTEMBER 1, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Evans was on vacation through September 3rd. In the forenoon, Commissioner Hart served on a panel at the Governor's Conference on Aging, which was being held at the Holiday Inn.

Audit List

Commissioners Dussault and Hart signed the Audit List, dated August 31, 1993, pages 2-46, with a grand total of $308,788.63. The Audit List was returned to the Accounting Department.

Monthly Report

Chair Dussault examined, approved, and ordered filed the monthly reconciliation report for Justice of the Peace, Michael D. Morris, for month ending August 31, 1993.

DAILY ADMINISTRATIVE MEETING

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

Plat

The Board of County Commissioners signed the Plat for Gleason Addition, a replat of a portion of Lot 6, Cobban & Dinsmore's Orchard Homes, a subdivision of Missoula County, located in the SE 1/4 of Section 19, T. 13 N., R. 19 W., PMM, a total area of .957 acres, with the owners of record being John P. and Goldie J. Wilson, and $2,611.11 cash in lieu of park was received by the Missoula County Treasurer.

Agreement

Chair Dussault signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences for the purpose of assisting Missoula County to conduct its own air pollution control program pursuant to Section 75-2-301, as per the stipulations set forth, beginning July 1, 1993, through June 30, 1994, with payment up to a maximum of $63,197.00. The Agreement was forwarded to DHES in Helena.

Plat and Subdivision Improvements and Guarantee

The Board of County Commissioners signed the Plat for Mullan Trail - Phase 2, a rural residential subdivision, located in the NE 1/4 of Section 14, T. 13 N., R. 20 W., PMM, Missoula County, a total area of 22.43 acres, with the owner/developer being David Theisen. The Commissioners also signed a Subdivision Improvements Agreement and Guarantee for the paving of roads within the subdivision which remain to be completed at an estimated cost of $45,490.80; the improvements shall be completed no later than September 1, 1994, and this has been guaranteed by a trust indenture signed on August 10, 1993, encumbering Lots 4, 5, and 16 in Block 2, Mullan Trail, with a value of at least $75,000.00, in favor of Missoula County.

Other items included:

> The Commissioners approved of the terms set forth in the City's draft Resolution of Intent to extend the corporate limits of the City of Missoula to incorporate within the boundaries of the City a certain tract of land which is contiguous to the City (Pineridge Drive and Highland Park).

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present was Commissioner Fern Hart.

HEARING: INTENT TO CREATE RSID NO. 8455--CONSTRUCTION OF SEWER MAIN EXTENSION ALONG CURTIS STREET AND CAROL ANN COURT IN HANSEN ADDITION

Ann Mary Dussault explained from information received from Jesse Sattley, RSID Coordinator, that a petition was received with 80% of the freeholders paying the cost requesting the construction of a sewer main extension along Curtis Street and Carol Ann Court in the Hansen Addition Subdivision, Missoula County, Montana. No protest letters were received.

The staff recommended the creation of RSID #8455 for the Curtis Street Sewer Extension.

The hearing was opened to comment.

Gilbert Larson, DJ&A, stated that although it was not needed, one more signature had been obtained in support of the sewer project.

There being no further comment, the hearing was closed to public testimony.

Fern Hart moved and Ann Mary Dussault seconded the motion to create RSID No. 8455 for the construction of a sewer main extension along Curtis Street and Carol Ann Court in Hansen Addition. The motion carried on a vote of 2-0.

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

SEPTEMBER 2, 1993

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

Indemnity Bonds

Chair Dussault examined, approved, and ordered filed the following Indemnity Bonds:

1) naming Gerald Reh as principal for warrant #11112, dated August 2, 1993, on the Missoula Irrigation District Fund in the amount of $334.62 now unable to be found; and

2) naming Susan Sheils as principal for warrant #17569 on the School District #1 Payroll Fund in the amount of $815.64 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-062

The Board of County Commissioners signed Resolution No. 93-062, a Resolution Creating RSID No. 8455 for the purpose of constructing a sewer main extension along Curtis Street and Carol Ann Court in the Hansen Addition, Missoula County, as per the items and terms set forth. Chair Dussault also signed a Notice Inviting Proposals for the construction of RSID No. 8455, setting the bid opening for September 28, 1993.

Memorandum of Agreement

Chair Dussault signed a Memorandum of Agreement between Missoula County and the Department of Social and Rehabilitation Services for the purpose of transferring a donation from Missoula County to SRS to be used to operate the At-Risk Child Care Program as a pilot in Missoula County, as per the items and terms set forth, beginning August 1, 1993, and ending June 30, 1994. The Agreement was returned to Cindy Klette, Grants Coordinator, for further handling.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #17, pay date of 8/20/93, with a total Missoula County Payroll of $511,543.02. The Transmittal Sheet was returned to the Auditor's Office.

Declaration of Covenant

The Board of County Commissioners signed approval of a Declaration of Covenant made August 26, 1993, by Earl M. Pruyn, owner of Parcel A, on Certificate of Survey No. 4263, declaring that the parcel containing less than twenty acres shall be used exclusively for agricultural purposes and that no building or structure requiring water or sewage facilities will be erected or utilized on the parcel.

Other items included:

The Commissioners reviewed and approved the review of the Missoula County Attorney's Office Special Restitution and NSF Checks accounts as of 12/31/92, as submitted by Susan Reed,

SEPTEMBER 2, 1993 (CONT.)

Missoula County Auditor; the review was forwarded to the Clerk & Recorder's Office for filing.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

SEPTEMBER 3, 1993

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

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ended August 20, 1993.

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending July 31, 1993.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

SEPTEMBER 6, 1993

The Courthouse was closed for the Labor Day holiday.

SEPTEMBER 7, 1993

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

Collective Bargaining Agreement

The Board of County Commissioners signed a Collective Bargaining Agreement between the United Food and Commercial Workers Union Local 1981 (City-County Library Bargaining Unit) and Missoula County for the purpose of promoting and continuing understanding between the Employer and the Union, to provide for equitable and peaceful adjustment of differences which may arise, and to establish mutually agreed upon conditions of employment, as per the items set forth. The Agreement was returned to John Pemberton in the Personnel Office for further handling.

Right-of-Way Easement

As per the recommendation of the Missoula County Park Board, the Board of County Commissioners signed an easement for right-of-way submitted by Montana Power Company for a 20-foot underground easement along the north, west, and south property lines of Ninkpata Park as shown on Subdivision No. 1219 Farview Homesites, subject to the requirement that MPC reseed the disturbed area. The Easement was forwarded to Herb Atkinson at Montana Power Company in Butte.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

SEPTEMBER 8, 1993

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

Audit List

The Board of County Commissioners signed the Audit List, dated September 8, 1993, pages 2-23, with a grand total of $59,234.39. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Agreement

Chair Dussault signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences for the purpose of providing services under the Maternal and Child Health Services Block Grant (MCH), as per the items and stipulations set forth, beginning July 1, 1993, through June 30, 1995, for a payment from DHES during SFY 1994 up to a maximum of $81,457.00. The Agreement was forwarded to DHES in Helena.

Contract

The Board of County Commissioners signed a Contract between Missoula County and the Montana Department of Commerce for the 1992 HOME Project, for the purpose of providing funding for project activities approved by the Department under the Montana Home Investment Partnerships Program, as per the items set forth, effective May 3, 1993, and in effect for the "period of affordability" defined in the Contract. The Contract was returned to Cindy Wulfekuhle in the Community Development Programs Office for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Fern Hart and Barbara Evans.

HEARING: REQUEST FOR ANNEXATION TO FRENCHTOWN RURAL FIRE DISTRICT (PHILLIPS)

Ann Mary Dussault explained from information received from Phyllis Browder, Recording Supervisor in the Clerk & Recorder's Office, that a petition was received by the Clerk and Recorder's Office to annex a parcel of land located in Missoula County to the Frenchtown Rural Fire District.

The petition for annexation was checked and verified. The petition contains signatures of more than 50% of owners of the privately owned land in the area to be annexed and a majority of the tax-paying freeholders within the area described, so they meet the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The hearing was opened to public comment; there being none, the hearing was closed to public comment.

Barbara Evans moved and Fern Hart seconded the motion to grant the request to annex a parcel of land located in Missoula County to the Frenchtown Rural Fire District based on the determination that the petition contained signatures of more than 50% of the property owners and that the request meets the requirements of the Statutes. The motion carried on a vote of 3-0.

RESOLUTION NO. 93-064

The Board of County Commissioners signed Resolution No. 93-064, a resolution annexing a tract of land located in the SW 1/4 of Section 24, T13N, R23W, P.M.M., Missoula County Montana, to the Frenchtown Rural Fire District.

HEARING: CDBG APPLICATION - LINDA VISTA SEWER PROJECT

Cindy Wulfekuhle, Block Grants Coordinator, explained that on September 14, 1992, Missoula County was issued an Administrative Compliance Order from the Department of Health and Environmental Sciences, ordering the County to correct the matter of groundwater contamination in the Linda Vista Subdivision area, also known as the Lower Miller Creek Area. Previous attempts to finance the sewer construction cost through a Rural Special Improvement District (RSID) have failed. The Compliance Order mandates that the County take measures that ensure compliance with the Administrative Order, including the creation of a

special improvement district for the construction of a public sewage disposal system in the area affected by the order.

The staff recommended approval of the Request for Authorization to Submit a Community Development Block Grant (CDBG) Proposal to the State on behalf of low and moderate income residents in the Lower Miller Creek and Linda Vista Areas. The purpose of the grant is to assist CDBG eligible households with the cost of sewer improvements.

The source of funds are derived from the Community Development Block Grant Program, which is a federal program administered by the State. Generally, every local government in Montana, with the exception of Billings and Great Falls are eligible to apply for these funds. Billings and Great Falls are considered entitlement cities, which means they have a City population of 50,000 or more. As entitlement cities they automatically receive an annual allocation of funds.

This year the State has approximately $5.4 million available for public facility and housing projects, with applications due in the fall and approximately $1.8 million available for economic development projects, with the opportunity to apply for economic development open all year, as long as the funds are available. Competition is very strong with generally only one-half of the projects being funded each year.

The County has been served a mandate or Administrative Compliance Order from the State Department of Health and Environmental Sciences directing the County to address the problem of contaminated groundwater in the Linda Vista/Lower Miller Creek Area. Previous attempts to create a Rural Special Improvement District (RSID) to finance the sewer improvements have all failed. Because of the high level of nitrates found in both public and private wells in the area, the State directed the County to use its power to create a forced RSID to provide a financial means to address the problem.

The system designed for the area will involve a gravity collection system or an off-site septic tank effluent pump or STEP system. The proposed design will minimize on-site construction impact to properties and reduce on-site construction costs. Other STEP systems involved individual tanks placed on each lot. This required a larger amount of on-site disruption and involved a larger on-site cost to the property owners that would not be included in a RSID. With the tanks off-site, as collectors placed in the street right-of-way for example, there is less disruption to each lot and less on-site construction costs to be financed on an individual basis.

Other efforts to further minimize the financial impact to property owners have been pursued by staff. One of the ways proposed is the subject of today's hearing. The County is proposing to submit an application to the State Department of Commerce requesting $290,000 of CDBG funds. Of this amount, it is anticipated $275,000 would be used to assist 27 low to moderate income property owners with their share of the costs to be incurred with the sewer construction project. If grant funds are awarded, on a property-by-property basis, first the Rural Special Improvement District assessment will be paid and then the on-site construction costs will be addressed. If additional funds are needed for on-site work, low income property owners will be required to apply for assistance under another County program. Moderate income and those with higher income households can also apply for on-site connection assistance.

The other program previously referred to is an incentive program offered by Missoula County. The funds available can be used for assistance with on-site construction costs. The program is funded with $100,000 from the Department of Natural Resources and Conservation (DNRC) and $100,000 from the Missoula Water Quality District. These two organizations have provided this money to be used as an incentive for homeowners to complete on-site construction and connection to the sewer within 90 days of sewer becoming available. The level of assistance available per household will depend on the demand for the assistance.

If successful in the application for CDBG funds and with the $200,000 of funds already secured as incentive money, there are still a lot of people in the area who are faced with a large RSID assessment for their share of off-site construction work. In order to minimize the financial impact to these property owners, the County is also submitting an application for State Revolving Funds. If the request for funds is awarded, the County will be able to provide 20-year term financing at 4 percent interest per year. It is anticipated the per lot assessment for off-site construction work will not exceed $10,000. A $10,000 RSID at 4 percent interest over 20 years is $727.20 per year. Over a period of 20 years, the total amount paid per lot would be $14,544.

Once the sewer improvements are complete, property owners will also be assessed a separate billing of $42.50 every six months. This is the rate for single-family properties. This is the same amount other single-family residential properties in the City would be assessed for sewer service of this type. If you have a use greater than single-family on your property, this amount would be different. The monthly billing is collected

by the City of Missoula and is used for operation, maintenance and reserve funding for future improvements to the overall wastewater treatment facilities and for maintenance of the lines and tanks in your area.

In response to the County's income survey, 110 forms were returned. Of these, 89 households answered the last question which asked "Do you support submitting an application for funds to the State of Montana for CDBG assistance that will benefit primarily low to moderate income households?" Of the 89 responders, 86 indicated they would support the CDBG application. Only three indicated they would not.

Again, the purpose of this hearing is to hear comments and answer questions concerning the CDBG application. To help keep residents in the area better informed of developments as they occur during the engineering and construction phases of this project, the County has requested the project engineer include in his contract for services the provision to have regular meetings with the area residents.

The hearing was opened to public comment.

Diane Mager, resident of Saint Thomas Drive, spoke in agreement with the recommendations to have regular informational meetings with the residents. She wondered why the public was not better informed by the agencies? She received the letter and survey on August 27th which was to be returned August 14th. She wondered why the residents on the upper end of Linda Vista weren't notified that they were to be included in the RSID until this recent mailing?

Cindy Wulfekuhle explained that the staff used the list from the tax assessments within the subdivision; also, research was conducted by going through books. She didn't know why Diane was not included on the mailing list.

Jim Carlson, Environmental Director at the City-County Health Department, explained that previous attempts to sewer the area did not include some of the areas further to the east of the lower Linda Vista area, at the time the order was directed to the Missoula County Commissioners and the Board of Health. This required the Department to go through an extensive review of the data available and make determinations as to which areas, based on ground water flow, were affecting the level of nitrates in the lower Linda Vista area. It was determined that ground water flow from the upper areas did continue into the lower Linda Vista areas. On the basis of this information, the Board of County Commissioners and the City-County Health Board determined that these areas would be included in any remediation plan in regards to sewering the area. This plan was submitted to the State Department of Health in December, 1992.

Cindy Wulfekuhle stated that the map can be double-checked to determine if all of the correct properties in that area were included.

Diane Mager commented that it seemed strange that properties on one side of the street were included, but properties on the other side were not.

Jim Carlson explained that the Missoulian had an article which indicated the streets and subdivisions included in the proposed area. There have been no governmental mailings. The Linda Vista Homeowner's Association has had meetings where the map has been discussed in detail.

Ed Moser, Helena Drive resident, expressed concern relative to street damage caused by the construction of the sewer line; he wondered if a sewer line could run the length of the backyards which had existing septic systems? There is nothing to hinder the construction of a sewer line on many of the back sides of the lots. An easement along the back of the lots would avoid a lot of street congestion and destruction of the streets.

Chip Johnson, DJ&A, Project Engineer, explained that they have looked at this; a preliminary design indicates that in some instances, going up the back side of the lots may be possible. One of things necessary to consider is that the City of Missoula will have the responsibility of operation and maintenance of the collection system once it is constructed. Part of the City's requirements necessitates that they insure the City has a reasonable access to all locations. Therefore, the City favors the placement of the lines in the streets within the public right-of-way for access. This is one of the reasons the City is in favor of going ahead with having a centralized gravity collection system and depositing the waste into these larger septic tanks. The larger septic tanks will be placed in locations where they will be adjacent to the street where the City maintenance people can do their job without entering private property. He stated they will work with the neighborhood to do the best they can to locate the lines. The neighborhood needs to keep in mind the concerns of the City, as well with regard to the maintenance of these facilities.

Ed Moser said the residents have not been informed relative to the central collection system; most of the residents would agree with the plan if they knew about it.

Chip Johnson explained that there have been meetings; one in May in the Cold Springs School which discussed the various options of sewering of the area; on at least two different occasions they have met with the Board of Directors of the Linda Vista Homeowner's Association to discuss how the area could be sewered. They have not proceeded to create an RSID to go ahead with the final design. He invited anyone that had any questions or concerns to contact him.

Ed Moser said the only pipe on their property would be the line to intercept the outflow of the sewage of the residence to the street. There will be no tanks or need to tear up the property for STEP tanks.

Chip Johnson said there are a few lots below grade which will have to have a pump in order to get into the sewer system. The creation of the RSID is for off-site improvements; not for on-site improvements.

Larry Kahle asked when a design would be ready that would show which properties would have lines going down the back and which down the front?

Chip Johnson explained that given the topography and the amount of area in the back of some lots, there are some areas which would be better served by having the sewer line down the back of the lot rather than in the street. Preliminary plans have been developed and are available for review by the public. He anticipated that the design would be completed and finalized probably in January or February of 1994.

Diane Mager asked what would happen to the remaining septic tanks once the system is in place?

Jim Carlson explained that if the tanks are metal, they will either be collapsed or removed. Most of the tanks are concrete and will be pumped and filled with sand.

Suzanne Monroe expressed concern that she may lose her home of 16 years due to the costs involved in this and other RSID's and costs. She didn't think she would qualify for the program being discussed; how will the County help residents like her?

Barbara Evans said there will be a meeting on September 23, 1993 in Room 201 with various banks in town to discuss various financial avenues available to residents for low-interest rates, etc., to help the residents in this area.

Suzanne Monroe wondered why this meeting was being held during the day; many people are concerned about this issue. It is difficult for people to leave work to attend daytime meetings. She requested that future meetings be held in the evening.

Cindy Wulfekuhle said the residents can call or write concerning this issue. She explained that she usually sends copies of the minutes of the meeting and any handouts to the residents whether they were present or not.

Ed Moser asked if the final design would be reviewed by the public before construction or bidding?

Chip Johnson explained that the plan is to solicit the residents' input prior to the finalization of the design. They will endeavor to work with the residents as they go along. There will be complete set of plans to review.

Jim Carlson said the process went from being a voluntary RSID to the Board of County Commissioners and the Board of Health responding to an order from the State. By necessity, the situation has ended up being somewhat less flexible with regard to some of the choices that can be made. One of the considerations or decisions which has already been made is that the system will be based on an off-site collector, which means that there will be large septic tanks in the street with gravity flow to those septic tanks. On the far side of the septic tank there will be a pump which will pump into the existing pressure main on Linda Vista Boulevard. This design decision was already made by the Board of County Commissioners and the Board of Health.

Ed Moser asked about the assessments for rental units?

Cindy Wulfekuhle said there would be a $10,000 assessment for the lot; the connection fee will be increased because of the duplex status. There would also be an increased charge for the operation and maintenance costs every six months by the City.

She explained that if a property owner rented to someone considered to be low to moderate income at the time the survey went out at the end of July, and if they agreed to rent controls--in that the property owner would not try to recover the costs of the RSID assessment for that property--the County could assist the owners with a grant for the property. She gave an example of someone who owned a rental which was

rented to a low-income household as of July 28th. There would be a $10,000 assessment to the lot; the property owner could receive a grant of $5,000 as long as they agree to continue renting to a low-income family and not raise their rent to try to recover the cost of that RSID. Rent could still be raised for normal increases, but if it was increased abnormally, this would be a red-flag to the County that the owner was trying to recover the costs of the RSID.

Dale Kindred wondered why the lots on Linda Vista Boulevard would have less costs than the other residents for the sewer project?

Jim Carlson explained the State RSID laws require that a property owner receive a benefit from the special improvement district being created to put the mains in the street. The main will go right by the homes of those people who live on Linda Vista Boulevard. If they are able to access this main and do so before the district is created, they can't be included in the district because they wouldn't be receiving any benefit from the creation of the RSID. These property owners will not have to pay for the RSID because they will not be included in it.

Michael Sehestedt explained if a person lived on Linda Vista Boulevard they would have to install at their expense, a STEP tank and pump to City specifications, the lines, etc. to the stub on the sewer main. These are the expenses the Linda Vista Boulevard residents would have to bear because they can directly access the main where it fronts on their property. The people in the RSID, through the RSID, will pay connection fees, the City of Missoula hookup fees, which is the same as those people who front on Linda Vista. The RSID will pay for the collector that runs in the street and for the large multi-family STEP tanks also located in the right-of-way. If not included in the RSID, these costs will be borne out-of-pocket; it is cash up front for the STEP tank, the connection, and hookup/use fee for the main. The people included in the RSID will pay out of pocket for the pipe from their outlet in their house to the edge of right-of-way where the RSID for improvements end. The RSID will pay the cost of the hookup, the cost of the interceptor, the cost of the multi-family connector tank and pump, and the connector mains in the street or behind the homes. The people on Linda Vista Boulevard will be paying cash up front of about $5-7,000 for the STEP tank and hookup including the cost of the interceptor, the charge to get on the main, plus the City of Missoula connection fee. These property owners will be paying for these costs up front without any public financing mechanism which will be about $6,500-$8,500. The RSID total will be about $10,000 plus on-site costs of $2-$3,000. It is clearly advantageous to be located on Linda Vista Boulevard, but the residents will have to find their own financing. Everyone will pay to hookup and for their own on-site improvements.

Larry Kahle asked why some homes will needs STEP tanks, while others won't?

Michael Sehestedt explained that the main is designed to take a pumped effluent and everything that goes into the main through a STEP tank which is a pre-treatment or settling tank, into a pressurized main. For the areas in the RSID area, rather than have a STEP tank in every yard, the system was designed so that almost every home would work on a gravity system. The effluent would flow to certain areas in the right-of-way where it will be collected and pumped by the City-owned pump into the pressurized line. The advantage to this is to keep lot improvements generally to just installing a line. It also avoids the ongoing aggravation of maintenance, etc. There are a few cases where there is no way to gravity service the home. There will be an individual lift station at those sites to lift it up and get it into the system by gravity into the collection sites.

Larry Kahle asked what the cost difference will be between the pump system versus the gravity system?

Chip Johnson said this will be an on-site cost; a small unit for an individual home would cost around $2-$3,000 in addition to the service line costs. There would be a small savings if they used a smaller dimension or shallower line.

Larry Kahle asked if these properties could be identified? Will they be notified that this will be an additional cost before the project starts?

Chip Johnson explained that their plan is to talk with these people. Some of these properties may not have to pump if they can obtain easements from neighbors.

Janet Moser, resident of Helena Drive, spoke in agreement with helping anyone who needed assistance with the costs associated with the project; however, everyone needs help. She wondered who will pay for the repair of the road once the sewer project is completed? Will the residents be assessed another assessment for the repair of the roads?

Jim Carlson explained that any reconstruction that occurs in the public right-of-way will be paid for by the RSID. It is included in the RSID price.

Chip Johnson explained that the cost to repair any of the road facilities torn up as a result of the sewer construction, are included in the RSID.

SEPTEMBER 8, 1993 (CONT.)

John Zimorino, resident of Darryll Lane, expressed concern that the residents have a say as to whether or not the lines will go through their back yards. He wondered how long it would be before the City annexed the area?

Barbara Evans explained there is an agreement between the City and the County that says that the City will not annex this area for a period of 15 years. They are trying to negotiate a time period of 20 years--but there are no guarantees.

Jim Carlson said the biggest caveat in this agreement is no annexation until such a time as 50% of the participants in the RSID have sold their homes.

John Zimorino said the average person stays in their home for about 5-7 years. The residents can expect to be annexed in less than 10 years.

Barbara Evans stated that the County has done its best, but they can't guarantee what can happen five years from now and can't make the City agree to anything.

John Zimorino wondered how the opening of the road and repair of the roads by the developer could be enforced?

Michael Sehestedt said the County will enforce the weight limit immediately. There may be additional patrols in the area to enforce the speed limits. Legal action, if necessary, will be brought against the developer if the conditions are not met with regards to putting the road through and road repairs. It will be very difficult to get subsequent subdivision phases approved until such a time as the County has actual repairs or adequate guarantees of repairs. Another possibility would be to do the following: 1) revoke previous subdivision approvals if this subdivision requirement is not complied with; 2) imposing possible repairs as part of any subsequent subdivision approval; and 3) requiring actual installation and acceptance of any required on-site subdivision improvements prior to giving final plat approval. There are a number of things the County can do. The developer and his subcontractors responsible for tearing up the street will find it in their best interests to make the required repairs.

John Zimorino asked how much time would the residents have to review the design and come up with input? He asked that any future meetings be held in the evenings.

Chip Johnson agreed with the suggestion of an evening meeting. He said it is their goal to bid this project in March or April of next year and start construction next year. They need to coordinate with the residents relative to where the lines will go because of easement needs for some folks. In addition, both the City and State need to approve these plans and specifications; their review doesn't go very quickly. He stated he hoped they could move ahead quite speedily and get the RSID created, as well as sign the contract for engineering services. They have started to design the area to serve the Linda Vista 3rd Supplement. They have not made any determination on routes; they have collected survey data to analyze possible routes the lines will take. When things proceed further, they will have meetings with the residents to discuss the routing of the sewer lines. It is best to serve some of these lots with sewer lines outside of the public right-of-way. The City Engineers Office isn't particularly receptive to this, but understand the situation. However, easements have to be granted from every property owner, or there will be a problem. It will take much coordination and cooperation from everyone in order to pull this off.

John Zimorino asked if the on-site work could be contracted out privately by the homeowners?

Chip Johnson said the homeowners can dig it themselves as long as it is done to the required City specifications.

John Zimorino said a number of neighbors are talking about getting a pool of 10-15 houses together to hire a contractor for a better deal.

There being no further testimony, the hearing was closed to public comment.

Ann Mary Dussault asked the audience if there was anyone present who believed the County should not proceed to submit the CDBG application as described by Cindy Wulfekuhle? No one raised their hand.

Fern Hart moved and Barbara Evans seconded the motion to approve the request for authorization to submit a Community Development Block Grant proposal to the State on behalf of low and moderate income residents in the Lower Miller Creek and Linda Vista area. The purpose of the grant is to assist CDBG eligible households with the cost of sewer improvements. The motion carried on a vote of 3-0.

Resolution No. 93-063

The Board of County Commissioners signed Resolution No. 93-063 as follows:

RESOLUTION NO. 93-063

A RESOLUTION AUTHORIZING SUBMITTAL AND SUPPORT OF A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATION TO THE STATE OF MONTANA ON BEHALF OF LOW AND MODERATE-INCOME HOUSEHOLDS IN THE LOWER MILLER CREEK AND LINDA VISTA AREAS. THE PURPOSE OF THE CDBG APPLICATION IS TO ASSIST LOW AND MODERATE INCOME HOUSEHOLDS IN THESE AREAS WITH THE COST OF CITY SEWER CONNECTION.

WHEREAS, Missoula County is concerned with the protection of Missoula's sole source aquifer and has been engaged in cooperative water quality planning projects with the City of Missoula since sole source designation was received; and,

WHEREAS, existing data documents a significant water quality problem in the Lower Miller Creek Area and it has been determined that connection to a municipal sewer system would mitigate the problem; and,

WHEREAS, the Lower Miller Creek Area is experiencing new development which will add significantly to the current problem; and,

WHEREAS, a local developer has financed construction of a sewer interceptor adequate in size for existing and future development in the area; and,

WHEREAS, on September 14, 1992, the Montana State Department of Health and Environmental Sciences issued to Missoula County an Administrative Compliance Order ordering the County to correct the matter of groundwater contamination in the Linda Vista Subdivision Area (located in the Lower Miller Creek Area) in Missoula County; and,

WHEREAS, it has been determined that the cost of sewer improvements will impose a significant financial hardship on low and moderate income households; and,

WHEREAS, Missoula County agrees to abide by the federal requirements as described in the CDBG Certifications for Application; and,

NOW, THEREFORE, BE IT RESOLVED, that the Chair of the Board of Missoula County Commissioners is authorized to submit this request for funds to the Montana Department of Commerce on behalf of Missoula County and the Lower Miller Creek and Linda Vista Area residents as described above and to act as the County's liaison with the Department of Commerce should additional information be needed.

HEARING (CERTIFICATE OF SURVEY REVIEW): BOUNDARY RELOCATION (LINDNER) GOVERNMENT LOTS 3 AND 4 AND THE E1/2 W1/2 OF SECTION 19 AND TRACT 1 OF SECTION 30, T20N, R16W

Michael Sehestedt, Deputy County Attorney, explained that Reinhold Lindner submitted a request for boundary relocations for Government Lots 3 and 4 and the E1/2 W1/2 of Section 19 and Tract 1 of Section 30, T20N, R16W. Government Lots 3 and 4 are two out of six that exist in both Section 19 (four lots) and Section 30 (two lots), each approximately 38 acres. Tract 1 of Section 39 is approximately 80 acres. The applicant plans to relocate the boundaries of Government Lots 3 and 4 to the E1/2 NW 1/2 of Section 19. This will create two separate parcels of approximately the same size as the government lots. The property that was within the Government Lots 3 and 4 will then be incorporated into the E1/2 SW1/2 creating a 165.562 acre tract. The applicant plans to retain this parcel for himself. The applicant also requested the boundary of Tract 1, Section 30, be relocated 60 feet to the west to create a 60 foot private road which will exist on the east part of the parcel and extend through the east part of E1/2 W1/2. The applicant plans to retain ownership of the private road and maintain it himself.

The history of the parcel is as follows: the above property was purchased from Paul and Carol Daly in May, 1993. In July and August, Mr. Lindner did retracements of the above government lots in both Sections 19 and 30. The retracements have been filed with the Clerk and Recorder's Office.

According to the records kept by the Missoula County Surveyor, in 1992 the applicant filed COS 4142 which created a parcel 20 acres or larger. In August, 1993, the applicant and his wife filed COS 4256 using the occasional sale exemption with a remainder.

The hearing was opened to public comment.

Greg Martinsen, Martinsen Surveying, representing the Lindners, gave an overview of the request. There are presently five tracts; when the boundary relocations are completed, there will be five tracts. The Lindners wish to control the access to the parcels. The location of the applicant's home is close to the center of one of the tracts.

Reinhold Lindner explained the layout of the tracts in relation to their home. After the boundary relocation, the existing tract where the home is located would become square instead of being so long.

Fern Hart asked if the applicants intended to sell the parcels?

SEPTEMBER 8, 1993 (CONT.)

Reinhold Lindner said in the future they will sell the parcels and retain the parcel with their home. The parcels are already split; they would like to have a square parcel that their home would sit on which would give them more privacy and the ability to control the road access into the area. Plum Creek owns land adjacent to their property and would like to have access to their lands; they are "landlocked" presently.

Ann Mary Dussault asked if the applicant could grant Plum Creek an easement even if the Commissioners did not approve the boundary relocations? She stated that she was not motivated to grant the relocations merely to grant Plum Creek access to their property.

Michael Sehestedt said as long as the applicants own the property, they can grant an easement.

Greg Martinsen explained that the Lindners want to control the existing access in order to keep traffic into the area to a minimum.

There being no further testimony, the hearing was closed to public comment.

Barbara Evans moved and Fern Hart seconded the motion to grant the boundary relocation for Reinhold Lindner for Government Lots 3 and 4, the E1/2 W1/2 of Section 19, T20N, R16W, and Tract 1 of Section 30, T20N, R16W, as requested, based on the finding that the request doesn't appear to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

Barbara Evans explained that the Commissioners are concerned about clear-cutting and hoped the Lindners had the same concern.

Mrs. Lindner explained that the area was clear-cut when they bought the property; they have tried to clean it up as much as possible. By controlling the access into the area, they can protect the meadow and the wildlife.

Reinhold Lindner stated that clear-cutting is "junky" looking and is wasteful. Without the trees, the land is worth so much less. If the land is clear-cut, the grizzlies and other wildlife have nowhere to go.

HEARING (CERTIFICATE OF SURVEY REVIEW): REVOCATION OF AGRICULTURAL EXEMPTION (PALIN)

Ann Mary Dussault explained that this item would be deferred to the Administrative Meeting on Thursday, September 9, 1993 at 10:30 a.m.

There being no further business to come before the Board, the Commissioners were in recess at 2:45 p.m.

SEPTEMBER 9, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-065

The Board of County Commissioners signed Resolution No. 93-065, a Resolution revoking the covenant stated on Certificate of Survey 3542 stating the S 1/2 Tract C be used exclusively for agricultural purposes as the current owner, Mel Palin, wishes to have sanitary restrictions lifted so that a single family residence can be placed on the S 1/2 of Tract C.

Notice of Sale of Bonds

Chair Dussault signed a Notice of Sale of Bonds in an amount not to exceed $120,000.00 for RSID No. 8455, the construction of a sewer main extension along Curtis Street and Carol Ann Court in the Hansen Addition, setting the bond sale for September 29, 1993, at 1:30 p.m.

Amendment to Professional Services Contract

The Board of County Commissioners signed an Amendment to the Professional Services Contract with John T. Browne MD, amending the contract as follows:

SEPTEMBER 9, 1993 (CONT.)

3. Performance Schedule:

Shall be amended to read that contractor shall "conclude completion of performance by the 30th day of September, 1993, and shall be responsible for an average of 12 hours per week to a maximum of 640 hours, to be scheduled by both parties.

4. Compensation for Services:

Shall be amended to read that the "maximum amount payable to contractor will be $32,000."

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Scott Whitmore, d/b/a H & R Janitorial, an independent contractor, for the purpose of janitorial services at the Weed Department, as per the items and terms set forth, beginning September 1, 1993, through August 31, 1994, for a total amount not to exceed $1,340.00.

Resolution No. 93-066

The Board of County Commissioners signed Resolution No. 93-066, a resolution accepting and approving the petition from Ken Allen for inclusion in RSID No. 8901, the Lolo Sewer & Water Plant, of Rossignol Orchard Tracts, a subdivision located in the NE 1/4 of Section 35, T. 12 N., R. 20 W., PMM, as per the fees and terms set forth.

Resolution No. 93-067

The Board of County Commissioners signed Resolution No. 93-067, a resolution adopting the "Special Sign District - Interim Zoning" as part of the general County zoning resolution effective August 18, 1993, as set forth in the attachment to the Resolution.

Settlement Statements and Escrow Agreements

The Board of County Commissioners signed the Settlement Statements and Escrow Agreements between Missoula County and R. C. Hobbs, purchaser of Lot 1 and Lot 2, Block 9, Wapikiya Addition, as per the items set forth. The documents were returned to Scott Hollenbeck of Properties 2000 Real Estate for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

SEPTEMBER 10, 1993

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

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

SEPTEMBER 13, 1993

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

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Beverly Rooley as principal for warrant #214955, dated 8-20-93, on the Missoula County Payroll Fund in the amount of $346.40 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and DeWayne A. Williams, an independent contractor, for the purpose of planning, acquiring supplies, instruction and clean-up for classes offered to the public by the Missoula Museum of the Arts, as per the terms set forth, from January 1, 1993, through December 30, 1993, as required by class schedules, for compensation at the rate of $10.00 per hour.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Marlene Nesary, for the purpose of conducting a project evaluation of a planning process for the Missoula County Airport Development Park (specific purposes are set forth in the attachment to the contract), as per the items and terms set forth, with payment at a fixed fee in the amount of $4,480.00. The Contract was returned to Orin Olsgaard in the DES Office for further handling.

Contract

The Board of County Commissioners signed a Contract Agreement between Missoula County and HOH Associates for the purpose of establishing an overall Master Plan for the Missoula Airport Development park and identify a direction and assist with setting priorities for future economic development efforts related to the Development Park and Missoula County, as per the provisions and terms set forth, from September 1, 1993, to June 30, 1994, for a total payment not to exceed $85,000.00. The Contract was returned to Orin Olsgaard in the DES Office for further handling.

Agreement

The Board of County Commissioners signed an Agreement for Professional Engineering Services between Missoula County and Druyvestein, Johnson & Anderson, for the construction of sewer collection and pumping facilities to serve a portion of the Southwest Missoula - Lower Miller Creek/Linda Vista Area, as per the items and terms set forth, for payment in the amount of $152,800.00.

Acceptance of Offer to Purchase County Property

The Board of County Commissioners signed Acceptance of an Offer from Robert Barker to purchase property owned by the County described as East Missoula Addition, West 7 feet of Lot 7, all of Lot 8, East Half of Lot 9, all in Block 25, for the price of $8,250.00, and granting the purchaser until October 15, 1993, to make such investigations into the status of Missoula County's title as he deems appropriate, with payment in full on or before October 15, 1993, at which time Missoula County will convey the property to Mr. Barker by warranty deed, subject to the exceptions set out in Paragraph 2 of the Purchase Offer.

Authorization to Conduct Environmental Services

Chair Dussault signed an Authorization to Conduct Environmental Services as proposed by Shannon Environmental Services in connection with a project identified as Phase I Environmental Site Assessment for the property descriptions submitted by Edward A. Cummings for property located near the Missoula County Courthouse and are the lots under consideration for purchase by the County, as per the proposal attached, for a lump sum fee of $4,950.00. The Authorization was returned to John DeVore, Administrative Officer, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JOINT HEARING

In the evening, the Commissioners held a Joint Hearing with the City Council regarding the Non-Motorized Transportation Plan. The minutes are on file in the City Clerk's Office.

SEPTEMBER 14, 1993

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Hart attended a meeting of the Seeley Lake Community Council in Seeley Lake; and Commissioner Evans attended a Maclay Bridge Citizens Advisory Committee Meeting at Target Range School.

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending August 31, 1993.

DAILY ADMINISTRATIVE MEETING

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

Recertification Information

Chair Dussault signed a Recertification form for FEMA for the purpose of recertifying that Missoula County is continuing to implement activities for which credit has been provided under the Community Rating System described in the original application dated December 14, 1990, and most recently recertified on October 1, 1993, in order to remain a Class 1-9 Community. The document was returned to Bud Hettich in the Office of Community Development for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

SEPTEMBER 15, 1993

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

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Becky Hemphill as principal for warrant #48439, dated 9-02-93, on the Clerk of Court's Trust Fund in the amount of $275.00 now unable to be found.

Audit List

Commissioners Dussault and Hart signed the Audit List, dated 9-14-93, pages 2-29, with a grand total of $141,428.71. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Notice of Hearing

Chair Dussault signed a Notice of Hearing on a Proposed Land Exchange and Development Plan for the Gleneagle/Grant Creek Area, with the exchange of property conditioned on the agreement of all persons having an interest in the subject property and on the acceptance by persons having an interest in the property of a development plan for the area which will limit both the number and location of housing units and which will subject certain parts of the property to conservation easements restricting development and land use, setting the hearing date for September 29, 1993, at 1:30 p.m.

Notice of Sale of Bonds

Chair Dussault signed a Notice of Sale of Bonds in a total amount not to exceed $27,000.00 for RSID No. 8454 for the purpose of constructing a sanitary sewer main extension to serve Block 1 of Maclay Addition, Missoula County, setting the bond sale for October 13, 1993, at 1:30 p.m.

Notice Inviting Proposals

Chair Dussault signed a Notice Inviting Proposals for RSID No. 8454 for the purpose of construction of a sanitary sewer main extension to serve Block 1 of Maclay Addition, Missoula County, and doing all work as may be necessary in connection with RSID No. 8454, setting the bid opening for October 12, 1993, at 2:00 p.m.

Budget Agreement

The Board of County Commissioners signed a Budget Agreement between Missoula County and Montana State University Extension Service for the period beginning July 1, 1993, and ending June 30, 1994, specifying the amounts the County will contribute for the purposes listed in the budget for the support of extension work in agriculture, home economics and related subjects, with the Extension Service and Montana State University contributing the amounts necessary to pay the balance of the cooperatively financed salaries of County Extension Agents assigned to Missoula County. The Agreement was returned to Jerry Marks in the Extension Office for further handling.

Other items included:

1) the Commissioners voted to deny a request from R. J. Rangitsch to reconsider Item #15 of the conditions of approval of Rangitsch Addition No. 4 to allow wood burning stoves; and

2) the Commissioners approved a request from the Seeley Lake Refuse Board to amend the Agreement for Services contract of April 24, 1990, with Kerry Drew, that he be paid in three equal payments, the first after September 1, 1993, for work in conjunction with the final closure of the landfill work instead of at the completion of the closure and final approval by the appropriate state agency as he has incurred considerable fuel and maintenance expense over the period.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The meeting was called to order by Chair Ann Mary Dussault at 1:30 p.m. Also present were Commissioners Barbara Evans and Fern Hart.

PROCLAMATION: HOUSEHOLD HAZARDOUS WASTE EDUCATION WEEK

WHEREAS, improper disposal of household hazardous waste can cause water and air pollution and soil contamination, threatening the health, safety and welfare of the citizens of the Missoula community; and

WHEREAS, safe disposal options are limited for many common, but hazardous, household products; and

WHEREAS, minimizing the amount of household hazardous waste buried in the landfill, poured down the drain, and dumped on the ground will safeguard the health, safety and welfare of the citizens of the Missoula community and is best accomplished through public education; and

WHEREAS, the citizens of the County of Missoula will benefit from a heightened awareness of the risks associated with household hazardous waste, how each of us can reduce the amount of waste we produce and how wastes may be properly disposed of; and

WHEREAS the Missoula City-County Health Department and Water Quality District, the Missoula Waste Water Treatment Plant, Browning Ferris Industries, Mountain Water Company, Columbia Paints, Ozzie's Drain Oil Company, and Montana Recycling have scheduled a limited Household Hazardous Waste Collection and Paint Exchange for September 25 at the Waste Water Treatment Plant; and

WHEREAS, the Missoula City-County Health Department and Water Quality District, the Missoula Waste Water Treatment Plant and the Missoula Urban Demonstration Project have planned a number of educational activities during the week of September 18 - September 25 pertaining to the risks, safe and effective alternatives, and proper disposal of toxic household products; and

NOW THEREFORE BE IT PROCLAIMED that the Missoula Board of County Commissioners declares September 18 - September 25, Household Hazardous Waste Education Week.

Barbara Evans moved and Fern Hart seconded the motion to sign the proclamation declaring September 18-25 Household Hazardous Waste Education Week. The motion

The meeting was called to order by Chair Ann Mary Dussault at 1:30 p.m. Also present were Commissioners Barbara Evans and Fern Hart.
carried on a vote of 3-0.

FINAL DECISION: PINERIDGE DRIVE VACATION

Mike Sehestedt, Deputy County Attorney, explained that Missoula County had a joint paving RSID with the City pending, and the City now is going to annex this property, which would mean that Missoula County would no longer have jurisdiction to close the road, or to create the joint proposed RSID. As of this time, Pineridge Drive is under the jurisdiction of the City, and he recommended that this issue be tabled without date.

Barbara Evans moved and Fern Hart seconded the motion to table the request to vacate that portion of Pineridge Drive located at the time the petition was received by Missoula County. The motion carried on a vote of 3-0.

SEPTEMBER 15, 1993 (CONT.)

Barbara Evans moved and Fern Hart seconded the motion to table the Resolution pending before the City of Missoula for an RSID to pave Pineridge Drive. The motion carried on a vote of 3-0.

HEARING: ALTERATION OF EXISTING GLO ROAD (BUTLER CREEK) TO POINT SIX ROAD TO RELOCATE PUBLIC ACCESS

Information received from Phyllis E. Browder, Recording Supervisor, indicated that a petition had been received to alter GLO Road, also known as Butler Creek Road, located in Section 17, Township 14 North, Range 19 West, Missoula County, from the West Section Line to the North Section Line. The reason for the request is to relocated public access from an old muddy trail GLO(Government Land Office) Road without creek crossings to an improved gravel road maintained by the U.S.F.S. being 60' in width. A list of adjacent landowners is noted on the petition.

Ann Mary Dussault noted that a letter had been received in the Commissioner's Office from Orville Daniels of the Forest Service, indicating support for this road alteration.

Chuck Wright of the Missoula County Surveyor's Office noted that the petition had contained an error: The boundary is stated as the west side of Byron Dodd's property, but it is actually the east side. He said this alteration of the road is a win/win situation, with the County, the Forest Service, and Rural Fire all gaining better access.

Paul Laisy, representing the Missoula Rural Fire Department, asked if the new road would provide access to some proposed development and if the road would meet Missoula County standards.

Chuck Wright said the answers to both questions was yes.

Byron Dodd said he wanted to emphasis the point already made that the actual alteration would take place on the east side of his property, not the west.

Chuck Wright said that would be taken care of.

Bryce Bondurant said the reason he had initiated the petition was to provide better access for everyone. It was noted for the record that a 50' cul-de-sac would be placed in the road by Mr. Bondurant or his clients.

Ann Mary Dussault noted that the law required a site inspection of the proposed alteration by a member of the Board of County Commissioners and the County Surveyor before the alteration could take place. The item will be placed on the Public Meeting agenda of September 29 for decision.

There being no further business to come before the Board, the commissioners were in recess at 1:50 p.m.

SEPTEMBER 16, 1993

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

Monthly Report

Chair Dussault examined, approved, and ordered filed the Monthly Report of Sheriff Doug Chase showing the items of fees and other collections on account of civil business in Missoula County for month ending August 31, 1993.

SEPTEMBER 17, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Hart was attending a Mental Health Board Meeting which was held at Fort Missoula.

Election Canvass

In the forenoon, Commissioners Dussault and Evans and County Auditor, Susan Reed, canvassed the City Primary Election, which was held on September 14, 1993.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

SEPTEMBER 20, 1993

The Board of County Commissioners did not meet in regular session as Commissioners Dussault and Hart were in Lewistown attending the MACo Annual Conference being held there.

SEPTEMBER 21, 1993

The Board of County Commissioners met in regular session in the afternoon; a quorum of the Board was present. Commissioner Hart was in Lewistown at the MACo Conference through Wednesday, September 22nd, and Commissioner Dussault returned from Lewistown in the afternoon. In the evening, Commissioners Dussault and Evans attended a Joint Public Hearing on the amendments to the subdivision regulations held at the City Council Chambers.

SEPTEMBER 22, 1993

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

Audit List

Commissioners Dussault and Evans signed the Audit List dated 9-21-94, pages 2-35, with a grand total of $144,887.69. The Audit List was returned to the Accounting Department.

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Southside Lions Club as principal for warrant #249140, dated 7-21-93, on the Missoula County Fair Fund, in the amount of $2,500.00 now unable to be found.

Budget Transfer

The Board of County Commissioners approved and signed the following Budget Transfer and adopted it as part of the FY'94 budget:

> no. 94-002, a request from DES to transfer $1,300.00 from the Meals, Lodging & Incidentals ($600) and General Training ($700) accounts to the Radio/Pager Service ($600) and Contracted Services ($700) accounts to cover the radio/pager service account which was budgeted at -0-and also to cover contracted services with Missoula Rural Fire Department for Hazmat Response.

WEEKLY PUBLIC MEETING

The Weekly Public Meeting scheduled for this date was canceled due to the MACo Annual Conference.

SEPTEMBER 23, 1993

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

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Montana Transit Association (MTA) as principal for warrant #35455, dated 8/20/92, on the Missoula Urban Transportation Fund in the amount of $260.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Policy Statement

The Board of County Commissioners signed Policy Statement 93-F, dated October 1, 1993, to update the Drug-Free Workplace Policy No. 92-B to comply with the Drug-Free Workplace Act passed by Congress in 1988, which requires that agencies or individuals who receive Federal aid or who contract with the Federal government adopt specific policies regarding the illegal possession and use of controlled substances; Missoula County adopted a

SEPTEMBER 23, 1993 (CONT.)

policy on 10-05-89 and this policy is updated annually and posted for all Missoula County Employees. The Policy Statement was returned to Patty Baumgart in the Personnel Office for further handling.

Agreement

The Board of County Commissioners signed an Agreement between the Missoula City-County Health Department and the Butte-Silver Bow County Unified Government for the purpose of conducting a childhood lead poisoning prevention program, as per the mutual covenants and stipulations set forth, for the period from July 1, 1993, through June 30, 1994, for a total payment from Butte up to a maximum of $47,540.00. The Agreement was returned to the Health Department for further signatures and handling.

Second Addendum to Agreement

The Board of County Commissioners signed a Second Addendum to an Agreement for Services between the Seeley Lake Refuse District and Kerry G. Drew to amend Paragraph 11(e) of the Service Agreement entered into on September 13, 1990, as set forth in the Addendum and approved by the Commissioners on September 15, 1993, with all other provisions of the Agreement and First Addendum in March of 1992 remaining in full force and effect. The Addendum was returned to the Seeley Lake Refuse District Board for signatures.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

SEPTEMBER 24, 1993

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

Indemnity Bond

Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Brad Hall as principal for warrant #045804, dated 9-16-93, on the Missoula County High Schools Fund in the amount of $21.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #18, pay date of 9-03-93, with a total Missoula County payroll of $465,807.70. The Transmittal Sheet was returned to the Auditor's Office.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

Vickie M. Zeier
Clerk & Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

SEPTEMBER 27, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-068

The Board of County Commissioners signed Resolution No. 93-068, resolving to endorse the Missoula Area Economic Development Corporation as the Certified Community lead organization for Missoula County, which has been designated as the Montana Certified Community; and authorizes it to complete recertification requirements on behalf of the community.

SEPTEMBER 27, 1993 (CONT.)

Resolution No. 93-069

The Board of County Commissioners signed Resolution No. 93-069, a Resolution relating to Economic Development Revenue Bonds (Rocky Mountain Elk Foundation Headquarters project) of the County in an approximate aggregate principal amount not to exceed $3,600,000; granting preliminary approval thereto; and establishing compliance with reimbursement bond regulations under the Internal Revenue Code.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Lulu Yee, an independent contractor, for the purpose of planning, acquiring supplies, instruction and clean-up for classes offered to the public by the Missoula Museum of the Arts, as per the terms set forth, beginning January 1, 1993, through December 30, 1993, as required by class schedules, with payment at the rate of $10.00 per hour.

Warranty Deed

The Board of County Commissioners signed a Warranty Deed to accompany the Purchase Offer to Buy County Property and the Acceptance of Offer from Missoula County to Robert Barker for SUID #877009 - E. Missoula--W 7' of Lot 7, all of 8, E 1/2 of 9, Block 25, Recording Reference Book 87, Micro Page 1008. The Deed was returned to the Clerk & Recorder's Office for further handling.

Other items included:

The Commissioners approved payment of the Seeley Lake Chamber of Commerce Dues.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

SEPTEMBER 28, 1993

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

Site Inspection

In the afternoon, Commissioner Hart accompanied County Surveyor Horace Brown for a site inspection on the request for a Road Alteration of GLO Road in the Butler Creek area.

SEPTEMBER 29, 1993

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

Audit List

Commissioners Dussault and Evans signed the Audit List, dated 9-28-93, pages 2-36, with a grand total of $117,258.45. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Addendum to Purchase Agreement

The Board of County Commissioners signed an Addendum to the Purchase Agreement, dated 8-17-93, between Missoula County and Jack I. and Billie L. Nelson pertaining to that property commonly known as a triangular parcel of land at the northeast corner of vacated Cooley Street at Bulwer, Missoula, MT, amending the Agreement as per the items set forth. The Addendum was returned to Merilynn Foss at Coldwell Banker Real Estate.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Fern Hart and Barbara Evans.

The Board of County Commissioners recognized Jane Ellis, Fiscal Officer, and the Accounting staff, Carol Routh, Debbie Gross, Jacquie Knight, Peggy Carey, and Sharon Siweck, for their excellence in performance. Missoula County received a Certificate of Achievement for Excellence in Financial Reporting presented by the Government Finance Officer's Association of the United States and Canada to government units and public employee retirement systems whose comprehensive annual financial reports achieve the highest standards in government accounting and financial reporting. This is the fourth year Missoula County has received the award and is one of two counties in the State of Montana to receive such an award.

DECISION ON: ROAD ALTERATION OF GLO ROAD - BUTLER CREEK

Ann Mary Dussault explained that Fern Hart and Horace Brown, County Surveyor, visited the site in question on Tuesday, September 28th, as required by law.

Horace Brown said the cul-de-sac is at the end of Butler Creek Road and has been put there by Byron Dodd and built to County specifications. This includes a right-of-way for the cul-de-sac which is a 50 foot radius. The 60 foot right-of-way will transfer from that point across the Section to the Point Six Road starting where the County right-of-way ends currently and will extend north-easterly until it intersects with the Forest Service boundary.

Fern Hart moved and Barbara Evans seconded the motion to alter "GLO Road AKA Butler Creek Road located in Section 17, Township 14 North, Range 19 West, Missoula County from West Section Line to North Section Line. The motion carried on a vote of 3-0.

Horace Brown explained that documentation of the cul-de-sac will be prepared; a deed will need to be exchanged; and the county record in the road book will reflect that the right-of-way is now on the Point Six Road rather than on the end of Butler Creek Road.

CONSIDERATION & ADOPTION OF AMENDMENTS TO COUNTY SUBDIVISION REGULATIONS

Barbara Martens, Planner at the Office of Community Development, explained that with the passage of House Bill 408, the 1993 Legislature made a number of significant changes to the Subdivision and Platting Act. The definition of a subdivision was changed to a 160 acre tract. The occasional sale exemption was deleted, and the use of the family conveyance exemption was restricted to a one-time only transfer of land to each member of the immediate family. The eight public interest criteria were changed to five primary review criteria. It now specifically requires the provision of legal and physical access to all lots and defines tract of record. The Legislature also directed local governments to amend their local subdivision regulations to comply with the statutory changes by October 1, 1993. The OCD drafted amendments to the current County Subdivision Regulations to address only those changes set forth in HB408. In addition, the Montana Department of Commerce recently submitted for review and comment a draft proposal of a state model subdivision regulation. The first draft was submitted in July of this year.

The staff mailed copies of the amendments of the existing regulations and the state model regulations to subdivision reviewing agencies, developers, surveyors, engineers, land use planners, the neighborhood network, and other interested parties. On July 8th, the Commissioners held an informational meeting addressing the amendments required by HB 408 and the proposed model subdivision regulations. On August 25th, OCD received a revised draft of the state model regulations which were mailed out for review and comment. A memo was also sent to all of the homeowners associations notifying them of the changes in the regulations and that copies could be obtained

On September 10th, OCD held a work session. At this meeting, it was suggested that OCD also hold a second hearing for a second phase of revisions. It was suggested that this second phase be a hybrid between the model regulations and the current regulations. Also suggested was a third phase which would address issues not currently addressed in either the state models regulations or the current regulations.

A joint public hearing was held September 21st between the Board of County Commissioners, the City Council and the Missoula Planning Board. At this meeting, the Planning Board recommended that the County Commissioners adopt the staff's recommendation for the changes to the current regulations in order to conform with the requirements of HB408 with amendments as follows:

A) Section 51(4)(G) Environmental and Community Assessment: An environmental assessment shall follow the format outlined in Appendix II and shall accompany the preliminary plat, except as provided for in MCA 76-3-210.

B) Subdivisions in compliance with all of the following criteria are deemed to be in the public interest and are exempt from the requirements of an environmental assessment:

~~1) Within the Missoula Urban Area, masterplan areas, or the Missoula County Comprehensive Plan is adopted pursuant to MCA Title 76, Chapter 1, as amended;~~
~~2) Where zoned pursuant to MCA Title 76, Chapter 2, Parts 2 or 3, as amended.~~

~~3) Where long range development program of public works projects pursuant to MCA Title 76-2 601, has been adopted.~~

~~Minor subdivision plats shall be exempted from this requirement. When a subdivision is proposed in an area for which a masterplan has been adopted pursuant to MCA Title 76, Chapter 1, as amended, and the proposed subdivision will be in compliance with this plan, or when the subdivision will contain fewer than ten (10) parcels and less than twenty (20) acres, the Office of Community Development staff may exempt the subdivider from the completion of all or any portion of the environmental assessment.~~

When such an exemption is granted, the Office of Community Development staff shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement shall accompany the preliminary plat of the subdivision when it is submitted for review.

Barbara Martens said the other amendments that were recommended as per the request of the County Surveyor was in the Definition Section under "Definition 25 -- Examining Land Surveyor"; the word "land" be inserted between the words "registered" and "surveyor". Also, under Section 4-2(6)(A)(3), there was a reference in the Recording Section to A-Q. It was suggested that this be changed to reference A-T to get the full section.

Ann Mary Dussault asked the Board for questions, comments or motions.

Barbara Evans commented that the Board received a memo from Horace Brown, County Surveyor, regarding the language concerning some fire language. She asked if this inquiry applied to this set of regulations or the next series?

Horace Brown said it was the next set of regulations.

Fern Hart moved and Barbara Evans seconded the motion to adopt the amendments to comply with the new legislation as recommended by the staff and the Planning Board as follows:

1) Delete the definition of immediate family.

2) Add the word "land" to "examining **land** surveyor".

3) Amend 4-2(6)(A)(3) to delete "A-Q" and add "A-T".

The motion carried on a vote of 3-0.

Ann Mary Dussault acknowledged the work completed by the staff at the Office of Community Development.

BID AWARD: BOND BIDS FOR RSID NO. 8455 (SEWER MAIN EXTENSION ALONG CURTIS STREET AND CAROL ANN COURT)

Ann Mary Dussault explained from information received from Jesse Sattley, RSID Coordinator, that one Bond bid was received for RSID #8455 Sewer Project ($120,000.00) as follows:

R.J. Rangitsch	6.4%

The staff recommended the bid be awarded to R.J. Rangitsch at the net rate of 6.4% for Series '93 issue of fifteen years.

Barbara Evans moved and Fern Hart seconded the motion to award the bid to R.J. Rangitsch at the net rate of 6.4% for Series '93 issue of fifteen years for RSID #8455 for the sewer main extension along Curtis Street and Carol Ann Court. The motion carried on a vote of 3-0.

BID AWARD: CONSTRUCTION BIDS FOR RSID NO. 8455 (SEWER MAIN EXTENSION ALONG CURTIS STREET AND CAROL ANN COURT)

Ann Mary Dussault explained from information received from Jesse Sattley, RSID Coordinator, that two bids were received for the sewer main extension along Curtis Street and Carol Ann Court as follows:

Green Diamond Construction	$ 82,873.59
Johnson Brothers Construction	$118,010.00

The staff and project engineer review of bids resulted in a recommendation to award the bid for RSID #8455 to Green Diamond Construction in the amount of $82,873.59. The project estimate for construction was $89,250.00.

SEPTEMBER 29, 1993 (CONT.)

Barbara Evans moved and Fern Hart seconded the motion to award the bid for RSID #8455 to Green Diamond Construction in the amount of $82,873.59, as the lowest and best bidder. The motion carried on a vote of 3-0.

HEARING: PROPOSED LAND EXCHANGE & DEVELOPMENT PLAN - GLENEAGLE (GRANT CREEK AREA)

Nick Kaufman, a land use planner with WGM Group, representing Mark Denton, explained that Mr. Denton approached WGM Group to become involved in considerations for development issues in the Gleneagle area. Gleneagle is north of Interstate 90 on Reserve Street in the Grant Creek Valley. He explained that in the 1970's Missoula County adopted a Comprehensive Plan in the urban area with land use designations. Shortly thereafter, zoning designations followed. A large portion of the hillsides in Grant Creek were proposed as an open space designation or C-A1 (one dwelling unit per 40 acres), which was protested. As a result, a large area of the Grant Creek valley was left unzoned. In the main valley, the zoning was designated as R-R1 (one dwelling unit per one acre) and C-A3 (one dwelling unit per five acres). This zoning stayed on the property for several years until Grantland came along which proposed a cluster concept of development (clustering homesites in the valley to try and preserve open hillsides). This plan was adopted and several subdivisions were approved. Due to various developments, the owners of Gleneagle and Hampton West lost control of the property. The PUD zoning vanished and was replaced when the new owners proposed another PUD in the Grant Creek Valley. This PUD reduced significantly the original impact of development, preserved important open space, and significantly reduced the total number of units in the Grant Creek Valley. The Friends of Grant Creek and the developers worked together with local government to devise this plan. The plan had several subdivisions approved and developed. However, this too fell to the wayside when the PUD lapsed. For those areas not annexed into the City, the zoning adopted in the mid-1970's went back into place. This raised some concerns.

He enumerated the achievements in the Grant Creek Valley through cooperation with the neighborhood association, developers and local government: a significant portion of property on the eastern slope has been retained, that isn't a conservation easement, as well as a cluster concept in the lower portion of the property which preserves open hillsides; and a large portion of property has been preserved in a conservation easement in the ownership by the National Wildlife Federation. Gleneagle specifically, has a recorded plat for a 94 lot subdivision where homes could now be built. In addition, a number of 20 acre parcels have been created. This development pattern could go forward; however, there is a better way. The landowners, with facilitation by the County Commissioners, have come together to look at the Gleneagle multiple ownership in terms of an overall development plan to fit the entire area. The concept revolves around the development rights in the Gleneagle Subdivision in terms of what could happen if the development rights were transferred from this subdivision to acquire additional open area. By way of a map, he showed the proposed development plan which would put a large portion of this area into a conservation easement. This area is adjacent to a very important wildlife habitat. He said they can try to work through the Legislative process and rezone this property from one dwelling unit per acre and one dwelling unit per five acres, but if the Commissioners initiate such a zoning, 40% or more of the property owners can protest the zoning. The likelihood of a zoning change is not good. By working together for private contractual agreements in perpetuity with conservation easements, a development plan can be worked out. Instead of the 20 acre tracts with potential building sites and an unzoned area, three dwelling units can be placed in this area with a conservation easement in place in the surrounding area. In the area along the open hillside on the east side of Grant Creek Road, they are proposing a certain number of dwelling units. In the Gleneagle subdivision, the 94 lots would be used for development of a portion of those lots utilizing the transfer of development rights to create open space in critical habitat.

Michael Sehestedt, Deputy County Attorney, explained that at this point, the County is simply considering the proposal that has been made to it by adjoining property owners. This hearing is on the concept and general allocation of the units to receive any comments or suggestion as to specific changes or additional requirements. At this point, none of the documentation has actually been drawn to implement this. The values have not been established which will be utilized by this exchange. He said the County will take testimony to see if there is public support for or problems with this outline of the concept of exchanging some of the County-owned units for open and resource land limiting and shaping development. If there is public support for this, there are a number of private property owners and creditors of some private property owners who will have a great deal to say whether or not it is sound public policy and something the County should pursue.

Nick Kaufman referred to the unzoned property on the maps. He said there are no controls on the uses on unzoned property. There are physical constraints in terms of septic tanks and drainfields, but it is not a single family residential district--it is unzoned. In the C-RR1 and the C-A3 zones, there are no minimum lot sizes; those are density concepts. It is a misconception that the developers must go through some review in order to develop this land. Projects for lease or rent do not go through subdivision review and can be developed. There is significant risk in allowing haphazard development on that particular property. Over the last several months, what has been accomplished has been conversations with the Department of Fish, Wildlife and Parks in terms of defining what the wildlife resource is; conversations with the property owners in terms of their goals and objectives; with Tim Hall of the Rural Planning Office in terms of Missoula County's open space issues; and the ability to make significant

trade-offs to enter into significant and controversial negotiations. He said the purpose of this meeting is to take public testimony on the development plan concept to see if they can go to the next stage of hammering out the specifics.

The hearing was opened to public comment.

Dirk Williams, representing C. Richard Kombereck, who built the sub-base that provides access for all of the propert affected by this development plan, explained that Mr. Kombereck has a lien against the southeast quarter of Section 33, large portion of which has been sited for a conservation easement. Even though Mr. Kombereck agrees with the concept, the conservation easement will not come to pass until Mr. Kombereck's lien and the liens of three other creditors, (Stensetter, Druyvestein and Johnson, have a writ of attachment that is attached to a portion of this property; the Dobbins, Deguire and Tucker defined benefit plan has a judgment lien that attaches to this property), are dealt with accordingly.

Ann Mary Dussault explained that the Board is aware of these circumstances and believes that the transactions involve will in fact satisfy these liens.

Michael Sehestedt said the deal can't go unless the liens are satisfied in legal tender or the lien holders join in some manne in the transaction transferring their lien.

Dirk Williams said Mr. Kombereck will cooperate to get this thing through because it is critical to the elk habitat in the Missoula Valley; however, he wants to get paid.

Michael Sehestedt said there are some creditor interests which have to be satisfactorily dealt with or the project won't go. The liens are prior to any interest the County might acquire. Foreclosure of those liens would make the County's acquire interests valueless.

Kim Birck, secretary of the Friends of Grant Creek, explained that the group has been involved in this project since the 1987 PUD was put into affect. They were quite surprised to learn recently that the zoning "sunsetted" two years ago without any notice. This development plan is a good plan for the elk herd and hopefully for the people who own land i the area. She said the group does not have strong reservations about this plan, but there are some aspects that cause the a bit of alarm. She said the group would like to see that the number assigned to the quantity of homes which can be buil on a certain area, not be a guarantee that a proposed subdivision could build that many homes if the land didn't permit it. Grant Creek is served by one road and the group would like to keep the road as uncluttered as possible. Any developmen which would require driveways to access directly onto Grant Creek would be unacceptable to the Friends of Grant Creek. The area proposed for four subdivision lots have a separate hearing; however, in their decision to either approve or den the development, she stated she hoped the Commissioners would make provisions for a mini subdivision plan on the 40 acres that would allow the eight development rights to be accessed by Gleneagle Road by a shared access. She said she asked the Office of Community Development about the Gleneagle subdivision and was told that it couldn't be develope because it was not consistent with the underlying zoning. All the questions about zoning are going to keep coming up. She asked the Commissioners for a commitment to direct the OCD staff to handle this problem of the lack of consistenc between the zoning, the already approved subdivisions, and between the Comprehensive Plans--the Grant Creek Plan an the Missoula County Comp Plan. In the long run, the proposal is probably much better than what it replaces, but the group would like to see the inconsistencies resolved before there are more problems.

Charles Tribe, President of the Five Valleys Land Trust, spoke in behalf of the Board of Directors. He said they wante to commend the Missoula County Commissioners, the land owners, the Department of Fish, Wildlife and Parks, and the conservation organizations who played a part in crafting the proposed land exchange and development plan for the Gleneagle subdivision area in Grant Creek. The proposal has been characterized as being perhaps 75% of optimum fo elk. This is far better than nothing and it may be the best solution possible in this instance. In addition to preserving the elk winter range, the proposal will greatly reduce development density on a portion of the scenic landscapes tha characterize this community. He said they agree with Commissioner Dussault's statement that this is the wave of the future. He encouraged the Commissioners to continue to use the same kind of creative approaches to protect not only the wildlife habitat, but the other key components of the environment. Five Valleys Land Trust is actively working to develop partnerships for land conservation and is prepared to assist in the County's efforts.

Bob Henderson, Department of Fish, Wildlife and Parks, spoke in favor of the concept of the work of this proposal. It is very appropriate in this age of residential development in wildlife habitat. He commended the land owners and the developers, the Commissioners and staff, for the hard work put into this proposal.

Richard Gotshalk explained that he just returned from a trip into Yellowstone and other places with mixed feelings. He was shocked and anguished at what he saw; there is visual destruction of a major valley in southwestern Montana by a insensitive type of development that is destroying a lot of public value. He congratulated the Commissioners for engaging in an effort to deal with open space matters. The fact that a governmental body made a decision in favor of open space is an important fact. However, open space is not only identified with just wildlife habitat. The County is forgetting the "human animal" more than it should. If this proposal is not modified to give some kind of consideration to design o location, there will be a visual blight on the upper hillsides and on the

skyline. There is a great opportunity to do some development which is sensitive both to the land and to the people. This is a step forward to sensitivity to animals. He urged the Commissioners to make sensitivity to the land part of the proposal as well. This community is undergoing a housing crisis; housing is being provided for the rich, but no housing for most of the people. There is a need for affordable housing in this community. This development should contribute to the funding of affordable housing. Development should not escape this sort of responsibility. The Commissioners have the responsibility to attend to this as they do to wildlife. He said the Open Space Committee has been urging envisioning open space in the form of agricultural land, trails, parks, urban forest, etc. He urged the Board not to stop planning at the borders of this development plan.

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

Barbara Evans thanked everyone who worked to make this development plan a potential possibility. Grant Creek is one of the great treasures of this area. Without everyone's involvement and support and willingness to work together, this great treasure would be lost.

Barbara Evans moved and Fern Hart seconded the motion to adopt the Gleneagle Conservation and Development Plan as follows:

After investigation and negotiation by interested owners and parties holding property in the Gleneagle Subdivision and surrounding area, a proposed conservation and development plan for the former Gleneagle Subdivision and surrounding area has been created, through cooperation and individual property owners, interested neighbors, and Missoula County.

The proposed conservation and development plan seeks to preserve numerous amenities in the area, including the elk herd that utilizes portions of the premises for winter range. In addition, the proposal has been designed to allow other properties in the area to be preserved and developed in accordance with the standards set forth in this proposal.

As contemplated and designed by interested parties, the area could be conserved and developed as follows:

1. Tracts 2, 3, 4, and 5, located between the Gleneagle Subdivision and Grant Creek Road, would be developed at an allowable density of four (4) units each. Development would be done in accordance with management practices that allow wildlife movement, incorporation of appropriate design standards such as color, and minimization of concerns with access on and off of Grant Creek Road.

2. Tract 1 would be developed with one (1) unit on the low end adjacent to Grant Creek Road. Tract 6 would be developed with allowable density of two (2) units, with the remainder of both parcels to be preserved as open space or wildlife habitat.

3. The Southwest Tracts, numbered 7 and 8, would be developed with a density of two (2) units on parcel 7 and five (5) units, adjacent to Gleneagle, on Parcel 8. The potential exists for exchanging development rights on Parcel 7 and 8 for other property owned by Missoula County, taken by Tax Deed in the area. Potential exists also for donation of any additional density on tracts 6 and 7 to be donated to the county to preserve open space.

4. The Northeasterly twenty (20) lots in Gleneagle Subdivision would be conveyed by Missoula County to Mark Denton, with the rights to develop the same being transferable. In exchange for those lots and open space, Mark Denton would convey to Missoula County a permanent conservation easement on the remaining property he owns in the area, comprising approximately 110 acres more or less, which property is adjacent to the National Wildlife Federation lands.

5. The 160-acre parcel owned by Ken Knie, located on the Easterly edge of the property, would be developed at a density of three (3) units. The building sites would be posted and surveyed, together with the roadway providing access to the same.

In exchange for the dedicated conservation easement, Mr. Knie would receive title to approximately 26 existing lots in Gleneagle, limited to 23 homes, which lots would be considered sellable or developable by Mr. Knie.

6. The 79-acre parcel described on Certificate of Survey No. 3340, presently owned by Missoula County as a result of a Tax Deed, may be potentially exchanged to Mr. Knie and Mr. Denton a partial consideration of their trading development units they possessed in Missoula County. One exchange could involve property North of the roadway accessing the Knie property being conveyed to Mr. Denton, and that portion of the property South of the roadway accessing the Knie property being conveyed to Mr. Knie, subject to a permanent conservation easement, in exchange for the 5 dwelling units proposed on Tract 8.

7. Missoula County would retain 15 lots in Gleneagle Subdivision along the roadway, for development or resale in the near future, after improvements are installed. The remaining Gleneagle lots would remain platted, and would be available for the County to utilize at a later time as deemed fit by the governing body.

8. The pending SID for improving Gleneagle Road would be retired by Missoula County, and all disputes between Knie and Missoula County would be permanently resolved by agreement of the parties.

The attached map illustrates what the area would look like after appropriate development. In addition, Missoula County and Ken Knie would be required to participate, on a per lot basis, for installment of improvements to the Gleneagle Lots being sold or developed within the subdivision. Mr. Denton would participate only on a per lot basis for any lots he chooses to develop.

This summation is a draft, and incorporates the concepts discussed in arriving at a development plan for the area. Documents and specific questions, as well as specific subdivisions and improvements will be reviewed on a case by case basis, and would be done in compliance with this development plan.

It is contemplated that those projects submitted that are in accordance with this plan would be approved, incorporating appropriate resource preservation criteria and addressing any additional concerns that may arise at the time specific projects are submitted.

The motion carried on a vote of 3-0.

Barbara Evans said the issues brought up by Kim Birck will be addressed in each subsection that comes in. Mr. Congdon's letter to the Commissioners addresses some of her concerns regarding access onto Grant Creek.

Ann Mary Dussault commented that this plan is not something which came about easily. No one should underestimate how complicated what appears to be a very simple process, was. When there are four to six private landowners involved--each with development rights they could enact tomorrow without anyone's permission--who have indicated a willingness to sit down and negotiate, the residents of Missoula County owe them an incredible debt of gratitude. Unless there is this kind of willingness on the part of private landowners in the future, the fact is, no one is in any position to direct or control the way this county will develop. Whether anyone likes it or not, the majority of this County is already subdivided into 20 acre parcels. They don't need anyone's permission to put houses on these parcels. Unless cooperation is gained from these property owners to amalgamate these parcels and the development rights on them, then the dreariness with which Mr. Gotshalk sees the world, will in fact, occur. It is this kind of effort which gives the County some ability to deal with some of these negative realities. She said a number of the details on how the development rights granted in this proposal will be carried out, remain to be negotiated. This Board is very sensitive to the issues outlined by the residents.

She said when things are complicated and complex, people can be paralyzed into doing nothing; or doing one more study, rationalizing that one more study will result in something. It is time to act now. There is not time to be paralyzed.

Barbara Evans asked about the wording in the language of the plan. She wondered about the words "could be"; did Mr. Congdon mean for this to say "would be"?

Wally Congdon said because this resolution was submitted for approval, "could be" was an appropriate term. There are a number of words included such as may, possibly, contingent upon, etc. The reason for this involves certain rules and regulations that this proposal has to comply with these. The assumption is, once the Commissioners adopt this, the subsequent paperwork will be drafted by himself and the other parties and will incorporate the should and shall portions of the resolution. The intentions of the parties are clear. There is still one preview by the Board of the development plan. He stated that all of the private property owners were present.

Ann Mary Dussault explained that the next phase will begin the week of October 4th. She said in order to consider both The Meadows of Grant Creek and Meadow Heights of Grant Creek at the same time, she asked for a motion to reconsider the Commissioner's action on The Meadows of Grant Creek.

Barbara Evans moved and Fern Hart seconded the motion to reconsider the Commissioner's action on the Meadows of Grant Creek at the Public Meeting on October 6, 1993 along with the consideration of Meadow Heights of Grant Creek. The motion carried on a vote of 3-0.

HEARING: REZONING & SUBDIVISION REQUEST - RIVER ROAD ADDITION (PRELIMINARY PLAT) CORNER OF DAVIS AND RIVER ROAD

Philip Maechling, Planner at the Office of Community Development, explained that the developer, Dave Theisen, and his representative, Druyvestein Johnson & Anderson, have prepared a plan for the land described as a portion

of Lot 20 of Cobban and Dinsmore Orchard Homes in the Northwest ¼ of the Northwest ¼ of Section 20, T13N, R19W, P.M.M. This property is located at the southeast corner of River Road and Davis Street.

This proposal is a combined rezoning and preliminary plat review request. The development plan calls for 16 townhomes (4 townhouse clusters of 4 units each) on a total of 1.77 acres, including open space. The developer is requesting a rezoning from county zone "C-RR3" (4 dwelling units per acre) to "C-R1" (8 dwelling units per acre) with a Planned Unit Development overlay, which could permit up to twelve (12) dwelling units per acre.

At its regularly scheduled meeting on September 7, 1993, the Missoula Consolidated Planning Board voted 4-2 in favor of rezoning the subject property, located at the southeast corner of River Road and Davis Street, to C-R1 from C-RR3. The Missoula Consolidated Planning Board also voted unanimously to deny the rezoning to Planned Unit Development and to deny the Preliminary Plat of the River Road Subdivision.

The reasons for recommending approval of the C-R1 zoning and denial of the PUD and preliminary plat are outlined below and may be found on page one of the zoning portion of the staff report and page eight of the subdivision portion of the staff report.

1. Incompatibility between proposed PUD zoning and existing residential development and neighborhood character;

2. Inconsistency with the Comprehensive Plan;

3. Lack of similarity between proposed PUD zoning and the existing zoning of the surrounding areas; and,

4. Suitability of the land for development at the density and intensity permitted in the C-R1 zone.

The developer originally proposed 18 units which equates to 10.2 units per acre. However, the developer revised the proposal to 16 units in four, four unit configurations.

Ron Ewart, Planner at the Office of Community Development, said the Office of Community Development staff recommended that the preliminary plat of River Road Addition be denied. The primary reason for this recommendation is that the proposed density is not consistent with the OCD's zoning recommendation. A total of 18 units calculates to about 10.2 units per acre; a total of 16 units calculates to approximately 9 units per acre. he developers were informed on August 12, 1993 that a total of 12 units on this site might be acceptable density as opposed to 18 units at this site. The reasons for not supporting density figures above 12 units on this site are as follows:

1. The Missoula Urban Comprehensive Plan designates this area as having a potential of 6 residential dwelling units per acre. If 12 units are developed (rather than the proposed 18) then the density would be 6.8 per acre, which is only slightly higher than the Comprehensive Plan designation. If this subdivision were to be approved, that approval would be contingent upon approval of both the proposed zoning and the Planned Unit Development overlay. As Staff is recommending denial of the overlay, the subdivision is also recommended to be denied.

2. This development, at the proposed density, does not allow sufficient buffering and open space between buildings and property lines. The 1-acre open space in the rear of the development is, in effect, largely hidden from view along the streets. It is important that the smaller open area near the corner of Davis Street and River Road is more widely linked with the larger open space in the rear. With a lowering of density, various design options will allow more visible open space. With the proposal of 16 units, this objective is more closely obtained.

3. While sewer and water services do not appear to pose a potential problem, other services are in need of upgrading before subdivisions of this density are constructed. These include improvements to streets to handle additional traffic, adequate parking areas, and sidewalks for pedestrians. A density of 12 units presents less of an increase in service needs than the proposed 18 units.

It is important that Missoula's great need to encourage the development of affordable housing be recognized. In all cases, it is important to carefully consider the needs of the neighborhood and the planned appearance of the subdivision as a new part of it.

Gilbert Larson, DJ&A, representing the developers, David Theisen and Rob Edwards, thanked the staff for their willingness to cooperate on this project.

He explained that for over a year, the Missoula Housing Task Force has been actively pursuing the need for affordable housing in Missoula. David Theisen has been very active with the Housing Task Force, as well as having other projects in the past that met the criteria of affordable housing, and is very interested in seeing this type of effort continue in Missoula. He has taken trips to Oregon and other communities to see how they are addressing the issue of affordable housing. Several of the ideas are incorporated into River Road Addition. Under the direction of the Affordable Housing Task Force, meetings were held that were beneficial in learning what sort of

concerns the neighborhood had and also informing the neighborhood of the developer's concerns. Several of the amenities added to the plat are the direct result of these meetings.

There is a strong and growing need for affordable housing. On the other hand, there is a need for amenities and density control. Somehow, these two factors need to be balanced. The amenities included in this project are: a homeowner's association and a set of covenants that would have real powers to restrict the type of buildings, the upkeep, the landscaping, junk vehicles, rubbish, etc. There will also be funding available for park maintenance through an RSID that would contribute towards the upkeep of this area. Garages and underground sprinklers for the common area have also been included. He said in discussions with Horace Brown, County Surveyor, he indicated that the streets as they are, are acceptable to the County without improvements. After this area is annexed into the City, the City may require that the streets be upgraded. The developers are willing to place a waiver of their right to protest an RSID or SID to improve the streets with curb or sidewalk. Also, in regard to fire protection, there is a plan to install a tank that would not only serve this development, but the entire area. The developer is willing to waive their right to protest an RSID to install a tank which would serve the entire area. He is also willing to provide water from his wells to serve the tank at no charge. This would be a positive influence for the area with the development paying its full share. Five overflow parking spaces have been added to serve as parking and turn-a-rounds.

Everyone recognizes the need for affordable housing; a balance must be reached. The parking, the common area and density have been dealt with and changed to more closely reflect the concerns of the neighbors and the various agencies. Does the need for affordable housing deserve some type of bonus or some type of an allowance?

The hearing was opened to public comment.

Marilyn Foss, a broker at Coldwell-Banker Real Estate, encouraged the Board to approve the project as presented by the developers. She stated in her 18 years in the real estate business, she has worked very hard to help first time homebuyers, low and moderate income buyers, and people with disabilities to obtain home ownership; never has that been harder than it is now. She gave various figures concerning the housing market in Missoula which showed the dramatic increase of housing costs. Many people could afford a home if housing were available in Missoula. This project would address the needs of 16 families for low to moderate income families.

Weymouth Simms, First Security Bank, spoke in favor of the proposal. Density versus affordable housing is an issue. It is vitally important that this project be approved if the community is to provide affordable housing for those who need it. He said the FHA maximum loan amount is $83,600. Density is vital for affordability. He explained if a person had an income of $25,000, they could afford about a $72,500 home. It is getting more and more difficult to buy a home in Missoula; this project is vital at a density of 16 units for affordable housing.

Hal Fraiser, First Security Bank, spoke in support of the 16 unit project. As the Chairman of the Missoula Redevelopment Agency, there is a high priority for affordable housing projects. He has worked with the developer on various other projects and spoke in support of Mr. Theisen's contributions to the community of Missoula.

Dave Gentry, representative of Summit Independent Living Center, a coordinator for housing, and a member of the Housing Task Force, advocated the project due to its accessibility and its affordability with people with disabilities. While there are accessible housing funding programs, there are no accessible housing units available in Missoula.

Pam Nelson, a person with physical disabilities, said she has searched for accessible and affordable housing for the past year with no success. By this spring, she will have to leave her home. This project is needed in the community.

Dick Banker, a homeowner on Curtis Street and a retired real estate broker, spoke in opposition to the zoning change. He said he bought the property in this area for a retirement home due to its rural flavor. He expressed concerns about the traffic situation in the area. While he nor his neighbors had any problems with the need for affordable housing in Missoula, he said they do not want this project in this area; it is in the wrong location. He said this project would diminish their lifestyle and their neighborhood.

Michael Sehestedt, Deputy County Attorney, explained that he was contacted at the beginning of today's meeting by Judith Klawitter, who had been present, but could not testify as she had to leave early. She objected to the project and requested that the Commissioners defer action for one week to give her time to get a letter together stating her objections on the record.

He said the issue of those homeowners living within 300 feet of the project not receiving a registered letter was raised. He explained there is no requirement of this kind for notice for rezoning. A subdivision requires mailing of notice to adjoining property owners. Published notice in the paper as well as notice posted on the property is required for rezoning.

Ron Ewart said because Judith Klawitter had just purchased her home, the letter of notification went to the previous property owner. The registered letter was sent back to OCD. The letters went to all property owners within 300 feet of the project. All other notification responsibilities were also taken care of.

Barbara Bush, resident of 2431 River Road, spoke in opposition to the development. She gave some background history of the zoning and planning in the area. The zoning currently allows four units per acre. She opposed rezoning a small lot within the zoned area. In this particular district, there are curbs and sidewalks. The City will soon annex this area now the sewer is available. She expressed concern relative to the streets and the danger this presents. River Road has exceeded 20,000 vehicle trips per day. Parking for two off-street cars will be allowed in this development; does this included the garage? She stated that street lights should be included and sidewalks and gutters should be required. She said the water situation in the area is critical; the development will not be on Mountain Water, but on individual private well systems. She stated that her well is registered with the State of Montana; if anything goes wrong with her well, the development will have to shut down their wells. She wondered how the planning agencies and Commissioners arbitrarily take a tiny portion of a zoning district and change it to different zoning without 60% approval from the residents?

Cindy Wulfekuhle, Missoula County Program Manager for the Missoula City-County HOME Ownership Program, offered her endorsement of the housing development proposed for the River Road area. The developers intend to create 16 units ranging between $67,500-$87,000 in price. There is a need for development of housing in this price range. Families who work and live in the Missoula area have been priced out of the housing market due to increased housing costs. In addition to providing housing that is more affordable, it will also create housing in an area supported by City sewer. Projects developed with individual sewer systems is of concern especially since Missoula is served by a sole source aquifer. Three of the last four projects her department has been involved in were for sewer improvements after housing was developed. She encouraged development with higher density where sewer service was available. The units will also accommodate individuals with special accessibility needs. This is an area of affordable housing that is in even shorter supply than standard affordable housing.

She stated that Kelly Rosenleaf, WORD (Women's Opportunity Resource Development), could not stay for the hearing, but commented that WORD is very concerned about the housing crisis, particularly for low to moderate income families. There are currently 1,400 families on the waiting list at the Missoula Housing Authority. Units under consideration do not address the needs of these families. However, other housing might become available as families move into new units. The HOME Grant is limited to the maximum FHA loan of $83,600. Last week there were 19 houses on the market below $85,000. The community needs to develop a larger vision about how affordable and low income housing will be developed. It is WORD's position that such development should be scattered throughout the entire community with every neighborhood housing their fair share of the units with no one neighborhood providing the bulk of low income housing. Such units should be developed where infrastructure exists. Neighborhood associations, non-profits serving low income and moderate income citizens, the Office of Community Development, City and County governments, the developers and financial institutions should work together to develop a community plan that addresses the housing crisis. The plan could define criteria which would qualify projects as being for the community good, addressing such issues as density, scattered sites, cost of units, profit and infrastructure.

Kathy O'Brien, City Grants Administrator and the Project Manager for the Missoula City-County Affordable HOME Ownership Program, testified on behalf of Nancy Leifer, Housing Task Force, who was unable to stay for the hearing. She stated that the median income for Montanans is about $25,000. Currently, housing that is being developed in the City of Missoula is about $86,300. Within Missoula County the floor of housing starts about $75,000. With a 7% loan, a family who earned $25,000 could afford about a $78,000 mortgage. She read some information about Boulder, Colorado where the school aged population has decreased 16% since the 1980-1990 Census due to families being priced out of the community. The Housing Task Force does not support specific projects, but in general, this project does fit the recommendations of the Housing Task Force.

She offered comments from Ed Mayer, the acting Director of the Missoula Housing Authority, who said that 60-63% of median income can afford the proposed homes.

She added that the HOME Program has received about 150 applications and will take applications until October 4th. The program offers, down payment, closing costs and other types of assistance for purchasing homes. The program has to stay within the FHA limits of $83,600; there were only 19 homes available last week under $85,000. Approximately 55-60 families will qualify for the program and will be going out into the community looking for homes within the price range. If they can't find the homes, they won't be able to purchase them.

Brenda Wittenberg, 615 North Davis across from the proposed development, commented on her concerns relative to the traffic on Davis and River Road. She stated that the development will use their parking area because there will not be enough parking spaces for the development. Nationwide, there is approximately three cars per family. Even though her son presently resides at this home, she and her husband plan to retire on this property. However, due to the density, she doubts whether they will do this now. Sixteen units is way more than should be allowed.

Linda Snyder, resident of Missoula since 1948 and a homeowner on River Road for 25 years, spoke in opposition to the proposed development. She spoke about the many meetings where the neighbors have expressed their opinions and opposition. Many of the residents felt that the County will do what they want to notwithstanding the resident's feelings. She expressed concern relative to the numerous meetings where the residents gave their input. The residents are weary of meetings. Many were not able to attend due to varying circumstances. The lack of physical attendance does not indicate a lack of opposition to this project within the neighborhood.

The neighborhood does not want this project--it will be totally out of character for the quiet and rural neighborhood. The developer is trying to transplant a city block of cars, kids and adults into an area zoned and deemed by the City-County Planners to handle seven dwellings per acre. Most of the residents moved to this area because it was rural and agricultural in nature and they did not wish to live in a congested, downtown setting. This area was also supposed to be protected by zoning laws. The residents are not opposed to growth or change, but are opposed to unnatural growth and change. They should not be forced to accept what is undesirable and unwanted by the residents. The citizens of Missoula County created the various governmental agencies to protect the residents' investments and their rights. The neighborhood's beliefs and sentiments have been clearly expressed and she wondered if it would be necessary to spend more time and money producing petitions to confirm their feelings. She urged the Board to consider the wishes and desires of the residents and retain the zoning as it currently exists. Should the Commissioners pass the zoning request and the subdivision, the residents will work diligently and relentlessly to gather petitions. Should this fail, she said she will offer her two and a half acres for a high density development.

David Theisen, co-developer for the project, explained that in 1991 he developed Spring Meadows. During the next 12 months, 50 homes were constructed and sold in the $65,000-$80,000 price range. During 1993, five of these homes have resold in the price range of $85-$90,000. These homes are no longer affordable. In August of 1992, he started to participate in the Missoula Housing Task Force. He spoke with developers in Portland, Oregon on ways to develop affordable housing. Two weeks prior to attending, he bought the property in question. As part of his involvement with the Missoula Housing Task Force, he spoke about a potential project in this location. Elements such as traffic were discussed with the participants in Portland; the result of these discussions was a courtyard design where parents could feel comfortable sending their kids out the back door into a location where kids would be protected and safe. Each of the four four-plexes allows two four-bedroom units which are 1,400 square feet with four bedrooms and two baths. The central units are two story, two bedroom with 950 square feet. Unit B is 1,250 square feet designed to house the disabled. Handicapped housing is not available in Missoula; there are no four bedroom units available in Missoula. One of the concerns was that the first affordable housing project to come into a city must have some positive design aspects to it so doesn't get a negative reputation. He explained that the roof lines are varied in order to get away from the boxed look with no design. The front doors are also offset. The end result will be a multi-faceted building design.

He explained that density is critical to this project and the amenities which will be offered such as oak cabinets, garages, metal clad windows, and lap siding depend on the increased density. The homes could be done less expensively, but the amenities would be taken away. This project will be owner occupied residences and will not look like an apartment complex. He provided figures and explained the ratios for financing for the purchase of the homes. He said the neighborhood in question is a neighborhood in change; there is nothing anyone can do to stop the change from occurring--there are too many people looking for places to live. There will not be much profit in this project; if there was a good profit more people would be doing projects such as this.

A discussion ensued relative to the siding that will be used on the project and if there could be a variation in the look of the siding from unit to unit. It was concluded that lap siding will be used and it would not make much difference in the cost if different size siding was used.

Barbara Evans commented that if the units varied from each other it would diminish the look of a housing project.

David Theisen explained that the look of the buildings will vary due to the six foot off-sets in the doors.

He explained that the project will not be completed in the 1993 calendar year. The homes will all be owner occupied. He explained that the question of who gets the units will be a big problem since there are only 16 units.

Fern Hart asked if the zoning change required notification and time for the residents to respond?

Michael Sehestedt explained that the notice has been given. If the Commissioners approve the zoning change it would be in the form of a Resolution of Intention to Rezone. Notice would be published twice and for a period of 30 days from the first publication. People in the affected zoning district will have the opportunity to protest. A 40% protest would defeat the zoning change.

Barbara Evans said the only area requested to be rezoned is the piece of property in question.

Michael Sehestedt explained that the affected zoning district is the entire C-RR3 zoning district. Everyone in that district has the ability to protest.

A discussion followed relative to the sewering of the project. The sewer line will come through and the area will be annexed into the City in December of 1994.

Michael Sehestedt said County zoning will no longer be effective unless the City rezones the property; it will convert to an unzoned state by virtue of the annexation.

Fern Hart questioned the availability of water in the area.

Philip Maechling explained that no records were available showing well problems. However, the people in the neighborhood could address this question.

Fern Hart asked about the fire protection and the developer's offer to provide water for the tank? The developer will provide the water and will participate in a neighborhood RSID for the tank.

Ron Ewart said Bill Lindstrom, Interim Fire Marshall, indicated that the water supply for fire protection is insufficient. He suggested requiring one of following: 1) an extension of the Mountain Water main with adequate hydrants; 2) a 5,000 gallon, refillable, underground storage facility with proper fire department connections; and 3) a pump and a well capable of pumping 350 gallons a minute. He said the staff at OCD hoped that there could be an agreement between the Rural Fire District and the developer to provide fire protection. This may be done up front or through an RSID. According to Bill Lindstrom's comments however, additional fire protection would be required.

David Theisen said if they are to do an affordable housing project, they will not be able to support providing fire protection for the whole neighborhood. He said the three options are too cost-prohibitive for this project. The costs will be borne by the units themselves and will probably raise the prices of the units by $1,000 each. He said the people who benefit from this should be the ones that participate in the project; the development will pay its fair share. This has the potential of killing the project if the development has to bear the full cost.

Harold Wittenberg, resident of the River Road area, spoke in favor of affordable housing, but not in this location. The roads in the area are very dangerous. The zoning should stay as it is.

There being no further comment, the hearing was closed to public testimony.

Ann Mary Dussault asked the Board for questions.

Barbara Evans asked how fire protection is presently provided in the area?

Gilbert Larson explained that the area is currently served by the Rural Fire District. There are no fire hydrants in the immediate area because there is no storage available through Mountain Water or any other public water companies. The area is served by individual wells and there are no facilities within six blocks of this project.

Barbara Evans asked if there was some way to connect a hydrant to the project's wells?

Gilbert Larson said it was suggested that a well capable of 350 gallons per minute be put in. This well would be ten times the capacity the 16 units would need. The project would need about a three horse pump, whereas the larger well would need a 25 horse pump. The cost would be much higher than putting in a tank.

Fern Hart said it is the City Fire Department that responds to this area. She asked when the City annexes the area, who has the responsibility of bringing the area up to the City's requirements?

Gilbert Larson said normally, the developers are required to obtain comments from either the City or the County. However, this area will be annexed in December, 1994. Because of this, it was recommended that they consult with City Engineering and the City Fire Department. Missoula Rural Fire presently serves this area, but in the future, the City will serve the area. The City does not have a policy concerning fire protection, but it would be up to the residents to decide if they want to initiate an SID to upgrade their system. Mountain Water is interested in extending into areas without a water system, and has a capital improvements program. Also, MRA will be interested in becoming involved and is interested in expanding their boundaries to include this area. Regarding the streets, he said the City will pay for the widening of the streets, but the residents are usually required to pay for sidewalks and gutters.

He said if a tank were installed, the Fire Department could supplement their fire fighting by pumping from this 5,000 gallon tank. However, the 16 unit development should not have to solely pay for an amenity that will benefit the entire area.

Fern Hart asked if disabled persons could afford these units?

David Theisen said the four, three-bedroom units for persons with accessibility needs are affordable to people whose income is $16,000 a year. The units are not designed for the disabled who are mobile. The units were designed with a bedroom on the lower level and two on the upper level. The remaining units have bedrooms on the second floor.

A discussion ensued relative to the right-of-way on Davis Street. It was concluded that there is room for a sidewalk and expansion of the street.

Ann Mary Dussault asked Linda Snyder for her question.

Linda Snyder said in her 25 years on River Road, they have had two parties and the law was called. This is the kind of neighborhood they live in. She wondered if it was possible that the units could be sold to college students or rented out by the property owners? She said the developer has assured the neighbors the units can only be owner-occupied.

Ann Mary Dussault asked if she and her neighbors could sell their homes? The point is clear that if a person owns their home, they can do whatever they wish with it.

Cindy Wulfekuhle explained that if a home is subsidized by the HOME Program, it has to be the owner's primary residence.

Ann Mary Dussault said if a home is assisted by either the Board of Housing or the HOME program, the homeowner must reside on the property. The buyers must be first time home buyers as well.

Gilbert Larson referred to the questions concerning the sidewalks and right-of-way on Davis. He explained that there is currently 24 feet of asphalt and 60 feet of right-of-way. The owners will maintain the portion of right-of-way in front of their homes. The right-of-way is available for widening the streets and for sidewalks. If the street were to be widened for curbs, gutters and sidewalk, this would provide more off-street parking. There will no longer be the need for the five spaces within the development. Two off-street parking spaces are provided for each unit.

Ann Mary Dussault asked Gilbert Larson to clarify what area is proposed to be rezoned?

Gilbert Larson explained that the district is a very large zoning district. The request is to rezone the 1.77 acre tract. The zoning request would only apply to this project within the larger zoning district; it would not affect any of the rest of the zoning district. However, the property owners within the zoning district will have the opportunity to protest that zoning change.

Ann Mary Dussault said what was heard from the neighborhood was significant opposition to the rezoning. Would the rezoning likely be overturned by the opposition?

Gilbert Larson said he couldn't say, but it is a very large zoning district. Those who live the closest to the project might feel differently than those who live further away in the district. There will be a mix of sentiment.

A discussion ensued relative to the sidewalk on either side of the garages. It was concluded that the sidewalks will be 40 inches wide. Two off-street parking spaces have been provided for each unit--one in the garage and an additional space off-street and outside the right-of-way. There is room to park two cars off-site.

Ann Mary Dussault asked if two units were the only difference between the present proposal and the proposal the Planning Board heard?

Gilbert Larson said there was opposition in the Planning Board to a six-plex. The six-plex was scaled down to a four-plex which reduced the density by two units. He said their original proposal tried to totally isolate the back courtyard from the front street. However, it was felt by OCD and the Planning Board that they should open the view area from the street into the courtyard. This was done as well as rotating a building to further provide some access in between buildings into the courtyard. Other changes that were made: off-street parking as well as a turn-a-round.

Ann Mary Dussault asked what the staff's recommendation was for the number of units?

Philip Maechling said 12 units.

Ann Mary Dussault asked what this would do to the cost of each unit? Would the project then become not affordable housing by the standards of the Housing Task Force?

Philip Maechling said with the type of building with garages, etc., it would probably bring the costs up.

Ann Mary Dussault said it was reasonable to assume that if the number of units was reduced to 12, it would reduce the quality of the exterior such as carports instead of garages, T1-11 siding instead of lap siding, and the design would change significantly.

Philip Maechling said to keep the project within the affordable range, it would require redesigning the buildings; they would also probably have to be smaller. Density is what provides a project with affordability. He suggested that the City and County needed a plan to deal with the in-fill housing process that will take place in these neighborhoods where change is going to happen. Part of the problem is that a process, a plan and a means is needed to put projects together that will be affordable and will work as neighborhoods change.

Ann Mary Dussault asked what difference a plan would make at this time--the plan is in conflict with the zoning--which is in conflict with the recommendation from the staff--which is in conflict with the request of the developer--which is in turn in conflict with the wishes of the neighborhood. Nothing is consistent in this case.

Philip Maechling said the Comprehensive Plan is in agreement with the zoning.

Ann Mary Dussault said the staff recommendation would make the zoning consistent with the Comprehensive Plan. If the County went through some extensive process of creating a plan, what difference would it really make other than what they already know? There is a lack of affordable housing; affordable housing requires density; to accomplish density, development needs to take place in areas which have existing infrastructure. What the neighborhood wants will take away what makes this project affordable, that is, density.

Philip Maechling said the issue of how to design projects in neighborhoods with density to meet the goal of affordability and the goal of a neighborhood design, needs to be addressed. He gave the Commissioners information relative to a project that was built in Denver which demonstrated their success in these goals.

Ann Mary Dussault said the neighborhood is not saying that design has a thing to do with this. Even if the design were changed, the neighbors would still say they don't want any more density than what is presently allowed--they don't even want the zoning changed to comply with the Comp Plan. She said design standards do not resolve the conflicts at hand.

Philip Maechling said the staff's recommendation is different than the neighbor's desire to keep the zoning at C-RR3. He said the staff recognized this is an area which is going to change. Incremental changes will provide an opportunity to build houses that can be more affordable than quarter acre lot houses.

Ann Mary Dussault said incremental changes do not meet the need of affordable housing.

A discussion ensued relative to the timing needs of the developers, the HOME Program financing, and the statutory requirements. Monday, October 4th is the deadline to submit HOME Program applications. People are waiting to see if there will be any homes available; if the decision is postponed until next Wednesday, it may be that some people might not bother to apply because there is nothing available for them to buy. The developers cannot market a project that has not been approved.

Fern Hart asked Cindy Wulfekuhle if this project isn't approved, will people not request money from the HOME Program?

Cindy Wulfekuhle said they will still have requests. The problem is that housing units are not available. The program will assist 58-60 families, but there are not enough homes in the price range of the FHA loan amounts. They cannot assist people who will not occupy the homes, but will have renters. There were only 19 homes available on the market under $85,000; they don't know how many of these homes would meet FHA approval. The deadline on Monday, October 4th is a cutoff date for submittal of HOME Program applications. There will be a random drawing on October 15th to select the participants. The City and County have until June 1st of 1994 to commit the people and properties into the cash management system. This project will fall in line with that. The deadline for the submittal of applications is not affected by when the Board makes their decision.

Ann Mary Dussault said statutory, the Board has until Monday to make a decision. If the deadline was extended until Wednesday, it would require consent of the developers.

A discussion ensued relative to the resident's feelings that they would have more time to comment. It was concluded that the residents were under the impression that they would have time to submit written testimony on this development as many could not stay for the entire hearing.

Barbara Evans suggested that the residents of the area who were present contact their neighbors to inform them that they need to have any correspondence, which would become part of the testimony, submitted to the Board by Monday morning. The Board can make its decision on Monday afternoon so that they do not have to obtain consent from the developers, and it will give the folks who wish to apply for the HOME Program a better selection of homes if approved.

SEPTEMBER 29, 1993 (CONT.)

A discussion followed concerning a question asked by a member of the audience regarding the zoning protest period. It was concluded that the Commissioners were trying to decide at which point the Board of County Commissioners would make a decision. If the Board decided to rezone the property, then there will be an opportunity to protest the rezoning.

Michael Sehestedt explained the process if the rezoning was approved by the Commissioners: 1) Board of County Commissioners would sign a Resolution of Intention to Rezone; 2) the Notice of Intention to Rezone will be published two consecutive Sundays; 3) the residents will have 30 days from the date of the first publication of the notice to protest the rezoning; and 4) 40% protest would defeat the proposed zoning change. A defeat of the zoning would also mean the defeat of the subdivision proposal. There is a possibility of a successful zoning protest by the residents.

Ann Mary Dussault suggested that the Board delay a decision on this matter until Monday, October 4th at 1:30 p.m. in Room 201 of the Courthouse Annex. This will allow receipt of any written testimony by Monday morning which will become part of the record. The public hearing portion is closed; the public hearing will not be opened again on Monday, but the Board will make a decision based upon the testimony received. She asked that the minutes of the Planning Board relative to this issue be made available to the Commissioners before Monday.

There being no further business to come before the Board, the Commissioners were in recess at 4:45 p.m.

SEPTEMBER 30, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-070

The Board of County Commissioners signed Resolution No. 93-070, a Resolution creating RSID No. 8452 for the construction of a sewer collection system for a portion of Linda Vista 3rd Supplement, Missoula County, as per the items and terms set forth.

Resolution No. 93-071

The Board of County Commissioners signed Resolution No. 93-071, a Resolution amending and correcting Resolution No. 93-056 (signed on August 12, 1993), intent to create No. RSID No. 8455 for construction of a sewer main extension along Curtis Street and Carol Ann Court in the Hansen Addition, Missoula County, as there was a clerical error in the Legal Description on "Exhibit A" of the Resolution and needed to be corrected to conform to the map "Exhibit B".

Plat and Subdivision Improvements Agreement and Guarantee

The Board of County Commissioners signed the Plat for forty-four Ranch Estates, a residential rural subdivision of Missoula County, located within the NW 1/4 of Section 13, T. 13 N., R. 20 W., PMM, with the owner of record being Shelter West, Inc., and cash in lieu of park land in the amount of $4,511.11 was received by the County Treasurer. The Commissioners also signed a Subdivision Improvements Agreement and Guarantee for the improvements which remain to be completed, the superelevation of curve of Roundup Road, at an estimated cost of $4,500.00, and shall be completed no later than October 15, 1993, with a check issued to Western Materials and Missoula County in the amount of $4,500.00 to guarantee performance.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

OCTOBER 1, 1993

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, Commissioner Evans attended a Judicial Standards Commission Meeting which was held in the District Court Conference Room. In the afternoon, Commissioner Hart attended the Grand Opening Celebration of the Center for Health Information at Saint Patrick Hospital.

OCTOBER 2, 1993

On Saturday forenoon, the Commissioners participated in the University of Montana Homecoming Parade.

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

OCTOBER 4, 1993

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

Monthly Report

Chair Ann Mary Dussault examined, approved and ordered filed the Monthly Report of the Clerk of District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ending September 20, 1993.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract with the Montana Highway Patrol, independent contractor, for the purpose of participation of the Missoula County Sheriff's Department officers in the Driving under the Influence (DUI) Enforcement Team, as per the terms set forth, for the period commencing August 1, 1993 through June 30, 1994, for Friday or Saturday night from 11:00 p.m. to 3:00 a.m. and other times as scheduled, for compensation in the amount of $1,000.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

WEEKLY PUBLIC MEETING

CONTINUATION & DECISION: RIVER ROAD ADDITION - PRELIMINARY PLAT

The Public Meeting was called to order at 1:30 p.m. by Chair Ann Mary Dussault for the purpose of acting on the request for rezoning and subdivision for River Road Addition - Preliminary Plat which was postponed from the Public Meeting on Wednesday, September 29, 1993. Also present were Commissioners Barbara Evans and Fern Hart.

Ann Mary Dussault explained that the public testimony portion of the hearing had been closed and the purpose of today's meeting was to make a final decision on the request for rezoning and subdivision for River Road Addition. A number of letters were received and entered as part of the public record.

Ron Ewart, Planner at the Office of Community Development, explained that the staff prepared conditions of approval for the preliminary plat for River Road Addition as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. Stormwater drainage plans shall be approved by the County Surveyor and the Missoula Water Quality District.

4. Street, grading, drainage, erosion control, and paving plans shall be approved by the County Surveyor.

5. The developer shall enter into an agreement with the City of Missoula to connect with available sewer.

OCTOBER 4, 1993 (CONT.)

6. Excavation permits for sanitary sewer connections and driveway approaches to public roads shall be applied for and granted by the County Surveyor prior to construction.

7. The following shall appear on the face of the plat and on each instrument of conveyance:
"Acceptance of a deed to lot shall constitute assent of the lot owner to waive their right to protest an RSID/SID for the installation of curb, gutter, and sidewalk along Davis Street and River Road. The same shall apply for the installation of public water services, to include either a water line or a water storage tank. The waiver shall run with the land and shall be binding on the transferee, successors, and assigns of the owners of the land depicted hereon."

8. Plans for water supply for fire protection shall be approved by the Missoula Rural Fire District and the City Fire Department.

9. The driveway plans shall be approved by the County Surveyor. The turnaround space shall not encroach into a possible future sidewalk easement.

10. Improvements to the common area to include the underground sprinkler system and the approved landscaping requirements shall be installed by the developer prior to the filing of final plat.

11. The covenants and property-owner's association by-laws shall be submitted and approved by the County Commissioners prior to final plat. They shall bear the certification of the attorney who prepared or reviewed them, that such attorney is licensed to practice law in the state of Montana, and that they contain the applicable provisions required by the Missoula County Subdivision regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

12. A property owner's association shall be filed with the Secretary of State, and proof to this effect shall be provided prior to filing of the final plat.

13. The developer shall provide a signed affidavit stating that the units in this subdivision will meet the price requirements for affordable housing under FHA guidelines.

Ron Ewart presented conditions of approval for the zoning for River Road Addition as follows:

1. Developer shall complete a Landscape Plan, subject to the approval of Board of County Commissioners, which provides a minimum of three front yard trees per unit, as indicated in the September 1993 plan presented by the developer. Garden and children's play areas shall be delineated on the landscape plan.
2. Developer shall provide street trees along River Road and Davis Street at an average of 25 feet on center. This would result in nine street trees along River Road and thirteen street trees along Davis Street which may include the existing cottonwood tree at the southwestern corner of the parcel.
3. Developers shall provide for perimeter landscaped buffering to cover at least 50% of the perimeter fencing.
4. Architectural drawings shall be submitted consistent with the architectural criteria, the PUD, and subject to the approval of the Board of County Commissioners. This shall include distinguishing each individual unit through the use of different colors, textures, roof lines and window treatments.
5. Areas of the site not improved with buildings or paving shall be landscaped per the approved landscape plan according to a schedule approved by the Board of County Commissioners and the Homeowners' Association.
6. A certified arborist and the City Forester shall inspect the existing cottonwood tree on the southwestern corner of the parcel and approve a driveway location plan for the conservation of that tree.

Barbara Evans asked whether or not the proposed conditions will take the subdivision out of the realm of affordability.

Gilbert Larson, DJ&A, commented on zoning condition #3 and #4 which dealt with landscaping and buffering and architectural drawings and designs. Regarding Condition #3, he said the subdivision has approximately 600 feet of perimeter fencing on this site. To cover 50% of this could be a tremendous

amount of landscaping and could take the project out of the realm of affordable housing. He requested that the developers plant the trees, the foundation plantings, and impose a fee of $150 per unit per year to further new landscape plantings within the common area. Relative to Condition #4, he commented that there was a requirement to distinguish each individual unit through the use of different colors, textures, roof lines and window treatments and wondered if this meant that each and every unit would have to have a different style of window, color, texture? He said they agreed with the concept of differentiating rooflines and siding, but to have each and every unit different with everyone of these aspects may be difficult. He suggested that the wording be changed from "and" to "or". They wanted to keep some things the same.

Barbara Evans clarified that each individual housing unit would not contain four different styles of dwellings, but the intention was to make the buildings different from the next building.

Dave Theisen said the Commissioners wouldn't be happy with the look of the buildings if the colors were all different. The units should be uniform, but can be different from the other through use of different roof lines, siding, etc. Other good looking projects in town are projects which have a uniform conformity. He clarified that the $150 per unit per year would include watering expenses, a building maintenance fund, etc.

Barbara Evans asked if the homeowners can use the discounts available to the developers for maintenance items and landscaping needs.

Dave Theisen said this is possible. However, the developer should be able to provide a project with an underground sprinkler system, landscaping, etc. They are planning to provide these things. They will provide a six foot high fence that a person can't see through; he wondered why he would need to provide buffering if a fence was in place?

Barbara Evans wondered if the existing Blue Spruce trees will be protected during construction?

Dave Theisen stated that the trees will be a minimum of 10 feet from the actual construction; they are located on a different piece of property.

Fern Hart asked if Mr. Theisen intended to give first option to buy the homes to participants in the HOME Grant Program?

Dave Theisen said one unit is already committed to someone with disabilities. Three of the units are set up for someone who is in a wheelchair with specially built facilities, including countertops, bathrooms, etc.

Barbara Evans asked if the stairways will be wide enough to accommodate a chair lift?

Dave Theisen said the intent of the specially built units is to provide upstairs bedrooms for the rest of the family or a live-in. A lower level bedroom is provided.

Fern Hart asked if the developers had a problem with the staff's recommendation for the conditions of approval?

Gilbert Larson said the conditions are satisfactory.

Fern Hart stated that she intended to support this project. The Commissioners have dealt with all of the issues brought up by the residents. She stated she has made calls to the Health Department regarding the water concerns, and they indicated that there will be adequate water. If there are or have been dry wells, they were in an earlier development. She also asked about contaminated wells in the area; it is the existing residents there who are on individual septic systems. This subdivision will not be on a septic system.

At this time, Fern Hart reviewed and gave explanations for each of the conditions of approval for River Road Addition.

Gilbert Larson commented on Condition #9 relative to possible driveway accesses. He said it is difficult for the developers to determine where a possible future sidewalk easement may occur. He said the intent was to insure in future when the streets were widened, the turnarounds wouldn't be a hindrance to a road project. He suggested language, "the driveway plans to include a turnaround space shall be approved by the County Surveyor." He said if this covered the concerns of everyone involved, it would make it easier to define what may happen in the future. He said there are no sidewalks in the area. Parker Court, which is some distance away, has sidewalks but is the only street in the area with sidewalks.

Fern Hart suggested the following language: "the driveway plans and turnaround space will be approved by the County Surveyor and that future proposals for sidewalks will be accepted."

Gilbert Larson said Condition #7 requires the subdivision to waive their right to protest installation of sidewalk along Davis and River Road.

Michael Sehestedt, Deputy County Attorney, suggested language as follows: "...shall be approved by the County Surveyor, and shall consult with the City Engineer and give due regard to the possible future location of curb and sidewalk when approving the turnaround location."

Gilbert Larson agreed with this language.

Barbara Evans expressed concerns relative to Condition #10 and suggested the following wording: "Improvements to the common area to include the underground sprinkler system and the approved landscaping requirements shall be installed by the developer prior to the filing of the final plat, or an appropriate guarantee of such improvements provided and approved by the Board of County Commissioners."

Barbara Evans moved and Fern Hart seconded the motion to approve the rezoning of the River Road Addition from C-RR3 to C-R1/PUD, subject to the following zoning conditions:

1. Developer shall complete a Landscape Plan, subject to the approval of Board of County Commissioners, which provides a minimum of three front yard trees per unit, as indicated in the September 1993 plan presented by the developer. Garden and children's play areas shall be delineated on the landscape plan.
2. Developer shall provide street trees along River Road and Davis Street at a average of 25 feet on center. This would result in nine street trees along River Road and thirteen street trees along Davis Street which may include the existing cottonwood tree at the southwestern corner of the parcel.
3. ~~Developers shall provide for perimeter landscaped buffering to cover at least 50% of the perimeter fencing.~~
5. Areas of the site not improved with buildings or paving shall be landscaped per the approved landscape plan according to a schedule approved by the Board of County Commissioners and the Homeowners' Association.
6. A certified arborist and the City Forester shall inspect the existing cottonwood tree on the southwestern corner of the parcel and approve a driveway location plan for the conservation of that tree.

The motion carried on a vote of 3-0.

A discussion ensued relative to the zoning condition #4 concerning the intent to distinguish each individual building through the use of different colors, textures, roof lines or window treatments.

Ann Mary Dussault commented that some of the best units in Missoula look alike such as Brookside.

Barbara Evans asked Dave Theisen if the housing units he has seen were of a consistent design and coloring? She wondered if they looked as if they were stamped out of a cookie cutter.

Dave Theisen said it is all in the design. Changes can be made to the appearance of the structures by changing the gables, etc. The buildings don't have to look exactly alike.

Barbara Evans moved and Fern Hart seconded the motion to **delete** Condition #4: Architectural drawings shall be submitted consistent with the architectural criteria, the PUD, and subject to the approval of the Board of County Commissioners. This shall include distinguishing each individual building through the use of different colors, textures, roof lines or window treatments.

The motion carried on a vote of 3-0.

Barbara Evans explained that the Commissioners are bound to look at the entire picture of the entire community. She gave her experience of living in a home where her view and way of life were interrupted because she did not buy the land adjacent to her; this is life. She stated she understood how distressing this could be; however, no rules are being violated. Times change and growth occurs. There is virtually little to no affordable housing in Missoula. People want their children to live in Missoula, but they can't afford to live here and there is virtually nothing available. She said we are pricing our own families and children out of housing in Missoula. This is making the opportunity to live in Missoula available only to the wealthy.

The Board cannot please everyone; however, this is a vital community issue. Dave Theisen is a responsible developer who will make a very nice project for the neighborhood. There is not a great deal of money to be

made on this project or everyone would be doing it. She said she applauded his interest in providing for the community and people less fortunate the opportunity to have housing.

Gilbert Larson requested that Condition #13 relative to the FHA guidelines for affordable housing be amended to say "FHA guidelines in Missoula." He said FHA guidelines are particular from area to area. There will be a cap of $83,600 on the homes.

Fern Hart moved and Barbara Evans seconded the motion to approve the Preliminary Plat of River Road Addition contingent upon the zoning change and based upon the findings of fact as designated in the staff report from the Office of Community Development staff and subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. Stormwater drainage plans shall be approved by the County Surveyor and the Missoula Water Quality District.

4. Street, grading, drainage, erosion control, and paving plans shall be approved by the County Surveyor.

5. The developer shall enter into an agreement with the City of Missoula to connect with available sewer.

6. Excavation permits for sanitary sewer connections shall be applied for and granted by the City of Missoula, and driveway approaches to public roads shall be applied for and granted by the County Surveyor prior to construction.

7. The following shall appear on the face of the plat and on each instrument of conveyance: Acceptance of a deed to lot shall constitute assent of the lot owner to waive their right to protest an RSID/SID for the installation of curb, gutter, and sidewalk along Davis Street and River Road. The same shall apply for the installation of public water services, to include either a water line or a water storage tank. The waiver shall run with the land and shall be binding on the transferee, successors, and assigns of the owners of the land depicted hereon.

8. Plans for water supply for fire protection shall be approved by the Missoula Rural Fire District and the City Fire Department.

9. The driveway plans, to include a turnaround space, shall be approved by the County Surveyor who will consult with the City Engineer regarding the possible location of future sidewalks.

10. Improvements to the common area to include the underground sprinkler system and the approved landscaping requirements shall be installed by the developer prior to the filing of final plat or an appropriate guarantee approved by the County Commissioners.

11. The covenants and property-owner's association by-laws shall be submitted and approved by the County Commissioners prior to final plat. They shall bear the certification of the attorney who prepared or reviewed them, that such attorney is licensed to practice law in the state of Montana, and that they contain the applicable provisions required by the Missoula County Subdivision regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

12. A property owner's association shall be filed with the Secretary of State, and proof to this effect shall be provided prior to filing of the final plat.

13. The developer shall provide a signed affidavit stating that the units in this subdivision will meet the price requirements for affordable housing under FHA guidelines in Missoula.

The motion carried on a vote of 3-0.

Michael Sehestedt stated that the approval is contingent upon the zoning change being completed.

Ann Mary Dussault explained that the Commissioners have adopted an Intent to rezone.

Michael Sehestedt explained that the Commissioners at this point can only adopt a Resolution of Intention to Rezone which means the Board wishes to rezone a particular area in a particular way. The Resolution of Intention to Rezone will be published twice in the Missoulian on Sundays. Beginning the date of the first

OCTOBER 4, 1993 (CONT.)

publication, a 30-day protest period commences within which, people residing within the area affected by the zoning change in that zoning district may file written protests to the rezoning with the Board of County Commissioners. If written protests are received from 40% or more of the property owners in the zoning district, within 30 days from the date of first publication, then the Commissioners are without zoning jurisdiction to proceed further with the rezoning. In the event protests are not received from 40% or more, the Commissioners have the jurisdiction to adopt a resolution which will rezone the particular area described in the rezoning.

Gilbert Larson said there was also a request in the proposal for a Planned Unit Development. He wondered if there had to be a separate motion to approve the PUD request?

Michael Sehestedt said no. He explained that given the conditions placed in the rezoning, the rezoning was for C-R1/PUD because the conditions imposed would, in the ordinary course, be a Planned Unit Development. This is the proposal to rezone the property C-R1/PUD and is what will be protested during the 30-day protest period.

Linda Snyder asked if the proposal to rezone is only for the specific 1.7 acre parcel of land on the corner of River Road and Davis, rather than the larger area?

Michael Sehestedt said at this point, that is the proposal to rezone C-R1/PUD, the 1.7 acre parcel located on the corner of Davis and River Road.

Linda Snyder asked if the residents wish to pursue a protest, who would they contact to sign petitions?

Michael Sehestedt said the protesters may obtain signatures from anyplace within the C-RR3 Zoning District which would count against the 40% and all of the properties within it are part of the total. The outline of the zoning district can be obtained from the Office of Community Development. The property owner's names can be obtained from the plat books in the office of the Assessor.

Linda Snyder said the protesters will have to contact people within miles of the zoning district; this does not seem a fair process. She said the residents wanted to know what they had to do to defeat the zoning because this is still a democracy.

Michael Sehestedt explained that the procedure isn't something that was made up in Missoula County, but is a State law. Protests can be obtained from the equitable owner which is the person purchasing for contract under deed or the person owning in fee simple or a person purchasing the property under a trust indenture. Whoever appears on the deed can be counted. If there is more than one name on the deed, these can be counted.

There being no further business to come before the Board, the Commissioners were in recess at 2:25 p.m.

OCTOBER 5, 1993

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

DAILY ADMINISTRATIVE MEETING

At the daily administrative meeting held in the forenoon. The following item was considered:

> The Commissioners discussed the Community Committee for the Linda Vista Sewer Project and authorized John DeVore and Jesse Sattley to proceed with the formation of this committee.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

OCTOBER 6, 1993

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Evans attended a public information meeting at the Target Range School regarding the Maclay Bridge Site Selection Study.

Audit List

Commissioners Dussault and Hart signed the Audit List, dated October 5, 1993, pages 2-30, with a grand total of $224,595.16. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmission Sheet

The Board of County Commissioners signed the Payroll Transmittal Sheet for Pay Period #19 issued on September 17, 1993, with a total Missoula County Payroll of $458,644.85. The Transmittal Sheet was returned to the Auditor's Office.

Resolution No. 93-072

The Board of County Commissioners signed Resolution No. 93-072, a resolution altering a portion of Butler Creek road located in the W1/2 and the NE1/4 of Section 17, T14N, R19W, P.M.,M.

Other items included:

> The Commissioners approved the expenses incurred by Billie Gray, a Committee member of the Gateway Corridor Planning Committee, at the Corridor Preservation Course in Polson.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

PUBLIC MEETING 1:30 p.m.

The Public Meeting was called to order at 1:35 p.m by Chair Ann Mary Dussault. Also present were Commissioners Barbara Evans and Fern Hart.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER (EILERS) TRACT B OF COS 3891

Kathy Smith, Paralegal for the County Attorney's Office, explained that James and Roberta Eilers submitted a request for a family transfer exemption for Tract B of COS 3891. Tract B is a 14.49 acre parcel and the Eilers propose to transfer 4.84 acres of the parcel which exists on the southeast portion to their daughter, Samantha Laurie Ann Eilers.

The history of the parcel is as follows: COS 1502 was filed in May 1978 created a parcel over 20 acres in size. COS 3891 was filed in January 1991 by the Eilers, creating three parcels using an occasional sale, family transfer and remainder. Tract C is the occasional sale, Tract D is the family transfer which was given to the Eilers' other daughter Aleta Marie Eilers and Tract B is the remainder.

According to the records kept by the Missoula County Surveyor's Office, the applicants have previously used the exemptions to the Subdivision and Platting Act as described.

The hearing was opened to public comment.

Greg Martinsen, Martinsen Surveys, explained that the Eilers want to give a piece of property to their other daughter. There are two other boys who are eleven.

Wally Congdon, Congdon Law Offices, who personally knows the Eilers, explained that the Eilers wish to give a parcel of land to their newly married daughter who is moving back from North Carolina. She plans to build a home on the property. He said at some point in the future, the 11-year old twin boys may want to stay in Missoula. He explained what occurred with the various lots. He said that the land for the proposed split is already geographically divided by a road which accesses six homes behind the lots.

A discussion ensued concerning a problem several years ago which involved two mobile homes placed on a parcel that was zoned for one unit. The parcel which previously had been owned by the Eilers, was owned by someone other than the Eilers at the time of the problem. There being no further comment, the hearing was closed to public testimony.

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A discussion followed relative to the new State law concerning subdivisions and exemptions to Certificates of Survey. It was concluded that the amendment to State law as it affects the family transfer exemption, provides that each person may make one transfer in their lifetime in each county to each member of their immediate family. The request for a transfer either is administratively handled by the Attorney's Office, or it is brought before the Commissioners for their determination as to whether the proposal is meant to evade the Subdivision and Platting Act.

Fern Hart asked whether this proposal would qualify as a low-impact subdivision under the current regulations?

Michael Sehestedt, Deputy County Attorney, explained that if the Eilers were splitting the parcel to sell to someone other than their daughter, it would be considered a low-impact subdivision under the regulations which exist conceptually.

Barbara Evans moved and Fern Hart seconded the motion to approve the request by James and Roberta Eilers for a family transfer exemption for Tract B of COS 3891, based on the finding that the request does not evade the Subdivision and Platting Act and subject to the filing of the deeds, transferring property at the same time the COS is filed. The motion carried on a vote of 3-0.

CONSIDERATION OF: MEADOW HEIGHTS OF GRANT CREEK (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that Meadow Heights of Grant Creek is a proposed 4 lot, single-family residential subdivision. Three of the lots are to be 5.0 acres in size, and one lot is to be 5.69 acres in size for a total project area size of 20.69 acres. The subdivision is located between Grant Creek Road and Gleneagle Way in the Grant Creek Valley west of Missoula. All access will be on Gleneagle Way. The lots will be served by public water and individual sewer systems. The land is characterized by natural slopes and wildlife habitat.

Based on the findings of fact, the Office of Community Development recommended approval of the Meadows Heights of Grant Creek Subdivision subject to all agency requirements and the following conditions:

1. Sanitary restrictions be lifted by State and local health authorities.

2. The first twenty (20) feet of all driveways shall be paved and shall not exceed 5%. The remaining portion of the driveway shall be surfaced with well-draining gravel and shall not exceed 12%. Driveways shall provide for two (2) off-street parking spaces.

3. Driveway design plans, including grading and turnarounds, shall be subject to the approval of the City Engineer, County Surveyor, City Fire Department and Rural Fire Department.

4. All utilities must be installed underground and utility easements must be shown on the plat.

5. The developer shall provide for appropriate easements which shall be shown on the face of the plat.

6. The covenants shall:
   a) Address wildland fire protection, wildlife habitat enhancement and protection, weed control, and scenic & ecological values. Such language shall be subject to the approval of the OCD and Rural Planning.
   b) Contain a sentence that requires homeowners to leash or fence all dogs.
   c) Recommend the planting of native plant species and that pest and weed management be performed through natural means, without use of toxic pesticides, herbicides, and insecticides.
   d) Contain a sentence that notifies homeowners that gardens and ornamental trees and shrubs attract wildlife, thereby creating the potential for adverse human/wildlife encounters. The covenants shall recommend homeowners fence gardens to at least 8 feet high, discouraging use of barbed wire and/or other loose wire. The covenants shall also recommend homeowners obtain a copy of Living with Wildlife either from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, 523-4657, or Rural Planning, Missoula County Courthouse Annex, 200 W. Broadway, Missoula, MT 59802, 523-3484. Where feasible, a copy of Living with Wildlife should be given to lot purchasers; and,
   e) Recommend that houses shall minimize exterior lighting. Options may include using motion detecting exterior lighting or a lighting scheme that places lights no higher than 3 feet above the ground. Specific language shall be subject to approval by the OCD.
   f) Barbecue grills shall be stored indoors and cleaned regularly.
   g) Pets shall be fed outdoors and food shall be stored indoors. Garbage shall be kept in an animal-proof container.

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7. All easements shall be shown on the face of the plat.

8. Deed restrictions shall be placed in all instruments of conveyance prohibiting perimeter fencing.

9. The developer shall comply with the following design standards:
   a) Grading shall produce slopes that are continuous in grade with the existing landform. Manufactured slopes shall substantially conform to the natural slope of each lot.
   b) Cut and fill for driveways and parking areas are not to exceed 3:1 side slopes.
   c) Building walls are not to exceed 18 feet above the adjacent natural grade on all sides.

10. The covenants shall bear the certification of the attorney who prepared or reviewed them, that such attorney is licensed to practice law in the State of Montana, and that they contain the applicable provision required by the Missoula County Subdivision Regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

11. The following shall appear on the face of the plat and each instrument of conveyance: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owners to any future RSID/ SID for the construction of City sewer main to serve these lots, and for upgrading of Gleneagle Way and Grant Creek Road, based on benefit, to include the installation of sidewalks and may be used in lieu of their signatures on an RSID/SID petition.

12. City of Missoula standard STEP system tanks shall be installed for all lots. Plans shall be approved by the City Engineer.

13. Approach permits onto Gleneagle Way shall be reviewed and approved by the Missoula County Surveyor's Office.

14. The developer shall enter into a covenant that shall run with the land guaranteeing that the lots will never be subdivided into parcels less than 5 acres without the mutual consent of the County Commissioners and the subdivision property owners and that all parcels in the subdivision will be used for single-family dwellings. This shall fulfill the Waiver of Parkland requirements of Section 3-8(2)(E) of the Missoula County Subdivision Regulations.

15. A vehicle pullout shall be constructed at the intersection of Grant Creek Road and Gleneagle Way. This pullout shall be of sufficient size and location to allow placement of mailboxes to serve these lots and allow for service to any additional development along Grant Creek Road in this area. This pullout shall also be of sufficient size to allow for school buses to safely pull off and onto Grant Creek Road while picking up and delivering students. The pullout design and construction shall be subject to the approval of the County Surveyor, the City Engineer, the U.S. Postal Service, and the Superintendent of Hellgate Elementary School.

16. An additional public easement shall be provided by the developer adjacent to Gleneagle Way, if deemed necessary by the County Surveyor.

17. The 200-foot and 150-foot no-improvement zones between Lots 1&2 and 2&3, respectively, in the adjacent proposed Meadows of Grant Creek subdivision, shall continue into Lot 1 of this subdivision. No construction shall be allowed, including structures, fences, roads or driveways. The centerlines of the zones shall follow the gulleys which they were designed to protect. These zones, are subject to the approval of the County Commissioners and the Rural Planning Office.

18. Buildings sites shall generally be located within those areas that contain less than 25% slope as shown on Exhibit A.

19. There shall be no construction, including roadways, on any slope greater than 25%.

20. Driveways shall be shared where possible and locations approved by the County Surveyor and the City Engineer.

Wally Congdon, representative of the developer, Vern Young, commented on Exhibit A and explained various changes to the no- build zones. One of the home sites was deleted due to the agreement with Mark Denton as part of the Gleneagle negotiations that this area would not have improvements placed in this area. This will preserve the viewshed and the wildlife corridor. He suggested that the blue zone be allowed to include the building site that is designated in Lot 2 which also minimizes the length of road. A lot of the lower blue area in Lot 2 could be deleted and doesn't need to be so large because they will not build on this portion. (The amended Exhibit A is on file in the Commissioner's Office.)

A discussion ensued relative to the possibility of addressing the slope concerns by including a statement that building sites shall be located in areas with a slope less than 25% which is the subdivision standard.

Ann Mary Dussault stated it was understood that there would be three blue building areas instead of four; the number of building sites remains the same.

Wally Congdon said the concern would be to retain the building designated in Lot 2 and not move the building down into the lower area. This would minimize the amount of road. The second concern was the question of what could be placed in the no-improvement zones. If the proposal is approved, and the no-improvement zones located between the boundary lines between lots 1 and 2 and 2 and 3 are allowed, the driveway would access the building site in lot 3 of Meadow Heights. If the driveway can't cross the edge of the no improvement zone, then the cut will have to be more substantial. He said they would prefer the language for this particular item to allow an at-grade or at-ground level improvement (the driveway) to cross the edge of the no-improvement zone. It would not cross the whole zone, but would cross approximately 20 feet of the south side of the no-improvement zone.

A discussion ensued relative to dropping the language that dealt with the 150 foot and 200 foot no-build zones through the gully. The width was set up for the lower subdivision; this would adapt the widths for what is actually there.

Wally Congdon commented that the driveways were drawn up on a map where they would best fit. The map could be subject to approval from Tim Hall of the Rural Planning Office. He proposed an addition to the Findings of Fact relative to the pull-out area at the intersection of Gleneagle and Grant Creek Road. In the proposal, they suggested that language be incorporated which states that the pull-out is intended to not only be used by the people who are in the subdivision, but also by Meadow Heights, Mark Denton, etc. Until the mail and school bus goes up Gleneagle Way, the people who live on the road will use the pull-out. They suggested that the record should also reflect that the other persons who participated in the Gleneagle development and conservation plan--Mr. Johnston and Mr. Knie who also have driveways accessing onto Grant Creek Road--should participate in a condition of approval of those subdivisions at a later time to participate in the creation of the pull-out. All the residents in the area will utilize the pull-out area in the future to resolve the Grant Creek Road problem for all of the properties that front on the road. He asked that the findings of fact acknowledge that these parties will participate in the creation of the pull-out. He suggested language as follows: "A vehicle pull-out shall be constructed at the intersection of Grant Creek Road and Gleneagle Way. This pull-out shall be adequate to allow mailbox placement and school bus pull-out. The pull-out shall be a condition and part of the improvements guaranteed for this project and it is contemplated to be a part of the improvements guaranteed for those other parcels of land in the Gleneagle Development Plan using the pull-out. Use of this area as a common mailbox location and bus stop was contemplated in the Gleneagle Development and Conservation Plan."

Andy Fisher, Eli & Associates, inquired about Condition #16.

Ron Ewart explained that the OCD staff wasn't exactly sure what the total right-of-way width of Gleneagle Way was. They felt it was important there be a public walkway easement along Gleneagle Way. There is a waiver on the right to protest the installation of a walkway along Gleneagle. This condition was a way to obtain enough easement to put in a walkway along Gleneagle just as there is one along Grant Creek Road.

Ann Mary Dussault stated that Condition #16 should read: "An additional public easement for walkway shall be provided if deemed necessary by the County Surveyor." This clarifies what the intent is.

Andy Fisher asked why they would be required to prepare STEP tank plans for the City Engineer's review in Condition #12; they do not usually have to prepare plans.

Barbara Evans explained the reason the City Engineer was put in because it was unclear whether or not a STEP tank would be necessary. The point was to determine whether or not there would be a system which would require a STEP tank.

Andy Fisher said they had no problem with putting in STEP tanks. This is addressed in the Health Department approval. When they obtain a septic permit, they will have to put a STEP tank in. The City Engineer is just another step in the process. He suggested that the last sentence involving the City Engineer be dropped to simplify matters. He commented on Condition #3 which addressed driveway plans. He wondered if this was a part of the building permit process? If it is required before the plat is filed, then this requires that they choose specific building sites and specific driveways to them. He suggested that this requirement be a part of the building permit process and does not prevent them from filing the plat.

Ron Ewart explained that the intent of Condition #3 was to look at each driveway on an individual basis for site distance, grade, etc. Because of the nature of the land, each driveway would be unique.

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Ann Mary Dussault asked if this was done at the time of the building permit process, would this meet the intent of the condition?

Ron Ewart stated that it did as long as it was reviewed by the engineer, the County Surveyor, and City and Rural Fire for each and every driveway.

Horace Brown, County Surveyor, explained that an approach permit would be required and is part of the building permit process.

Ann Mary Dussault suggested the following language: "Driveway design plans, including grading and turn-a-round shall be subject to the approval of the City Engineer, the County Surveyor, the City Fire Department, and the Rural Fire Department at the time of issuance of the building permit."

A discussion ensued relative to the question of why the City Fire Department would be involved. It was concluded that because of the proximity of Grant Creek Road, all the agencies should have a say in the matter.

Andy Fisher asked if the developers meet the grade requirements on the driveways, why would they have to have another approval step in Condition #3?

Barbara Evans said this will be reviewed at the time the developers apply for an approach permit

Horace Brown explained that the Surveyor's Office looks at the entrance to the County road, site distance and drainage. They look at these at the County road; they do not care what is beyond this point.

Andy Fisher said a condition requiring plans for driveways is a nice condition to have, but someone has to be hired to draw up the specific plans.

Ann Mary Dussault said this is the point. There are a number of issues with the driveways and unless there is a point at which someone reviews them, there is no way to ensure the driveways meet the various standards. It is intended to ensure the driveways do not infringe on the no-build zones.

Andy Fisher stated that there are driveway standards in the regulations.

Wally Congdon referred to the map from Tim Hall regarding the driveways. One of the driveways which accesses a lot below a certain parcel, crosses part of Lot 1 relatively close to the no-improvement zone. It is not in the draw, but it does impinge on the 200 foot width zone. The driveway that accesses the home within the lot exits Gleneagle Way at the corner of Lots 2 and 1 adjacent to Gleneagle Way which is within the distance of the no-improvement zone. If the no-improvement zone says no driveways, the problem is the access to the parcels of property would require a much larger cut, fill, and grading. They would much rather have the language read, "The driveway will be approved by the Rural Planning Office." The details can be worked out with the Rural Planning Office. The map shows the various driveways and their locations.

Bill Brunner, Vice President of the Friends of Grant Creek, asked if approval could be withheld until reconsideration of the Meadows of Grant Creek? The two are very common and there might be some way of resolving concerns if the decision is postponed until after the other one.

John Hendrickson asked why this development is not being required to hook up to City sewer when other developments in the area were required to?

Michael Sehestedt explained that health regulations say if there is a community water system, there can be on-site sewage disposal on half acre lots or larger, assuming ground water and other soil conditions permit. If there is both on-site water and sewer then a density of one unit per acre is required. The Prospect subdivision far exceeds one unit per half acre and was required to have community sewer.

A discussion ensued relative to the map and the number of homes placed on it. There will be a total of four homes, but one of the lots have two possible building sites.

John Hendrickson asked about Condition #12 which referred to the plans being approved by the City Engineer. They indicated that developments in this area would be required to dry-lay sewer lines to the roads. Is this not a prerequisite?

Ann Mary Dussault said no. There will be a proposal forthcoming in the future from the Water Quality District which will give guidelines to local governments in terms of requiring dry-laying of sewer. This is not a requirement for subdivisions at this point in time.

Wally Congdon explained another reason for this is if sewer does go in, it may use a STEP system or a gravity flow system. Because the decision cannot be made at this time, they will be installing STEP tanks which will allow the option of hooking up to future sewer mains.

Ann Mary Dussault said the only time the Board has required dry-laying the sewer is in major subdivisions under public roads. The Board has never required dry-laying from a lot to a road to a system that hasn't even been designed yet.

Barbara Evans suggested that Condition #6(c), which deals with the use of pesticides, herbicides, etc., be amended to say "...unless approved by the County Extension Office." At some point in time, a control may be found for leafy spurge and may require the use of some of these items. It is more important to have some way to deal with the problem than it is to deny them that use. She suggested that Condition #6(g) be amended to read, "Pet food shall be stored indoors."

At this time, Ann Mary Dussault reviewed each of the conditions suggested by the OCD staff and the developers. The changes and amendments are reflected in the final motion.

Barbara Evans moved and Fern Hart seconded the motion to approve the Summary Plat of the Meadow Heights of Grant Creek based on the findings of fact and subject to the following conditions:

1. Sanitary restrictions be lifted by State and local health authorities.

2. The first twenty (20) feet of all driveways shall be paved and shall not exceed 5% grade. The remaining portion of the driveway shall be surfaced with well-draining gravel and shall not exceed 12% grade. Driveways shall provide for two (2) off-street parking spaces.

3. Driveway design plans, including grading and turnarounds, shall be subject to the approval of the City Engineer, County Surveyor, City Fire Department and Rural Fire Department at the time of issuance of the building permits.

4. All utilities must be installed underground and utility easements must be shown on the plat.

5. The developer shall provide for appropriate easements which shall be shown on the face of the plat.

6. The covenants shall:
   a) Address wildland fire protection, wildlife habitat enhancement and protection, weed control, and scenic & ecological values. Such language shall be subject to the approval of the OCD and Rural Planning;
   b) Contain a sentence that requires homeowners to leash or fence all dogs.
   c) Recommend the planting of native plant species and that pest and weed management be performed through natural means, without use of toxic pesticides, herbicides, and insecticides unless approved by the County extension office.
   d) Contain a sentence that notifies homeowners that gardens and ornamental trees and shrubs attract wildlife, thereby creating the potential for adverse human/wildlife encounters. The covenants shall recommend homeowners fence gardens to at least 8 feet high, discouraging use of barbed wire and/or other loose wire. The covenants shall also recommend homeowners obtain a copy of Living with Wildlife either from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, 523-4657, or Rural Planning, Missoula County Courthouse Annex, 200 W. Broadway, Missoula, MT 59802, 523-3484. Where feasible, a copy of Living with Wildlife should be given to lot purchasers; and,
   e) Recommend that houses shall minimize exterior lighting. Options may include using motion detecting exterior lighting or a lighting scheme that places lights no higher than 3 feet above the ground. Specific language shall be subject to approval by the OCD.
   f) Barbecue grills shall be stored indoors and cleaned regularly.
   g) Pet food shall be stored indoors. Garbage shall be kept in an animal-proof container.

7. All easements shall be shown on the face of the plat.

8. Deed restrictions shall be placed in all instruments of conveyance prohibiting perimeter fencing.

9. The developer shall comply with the following design standards:
   a) Grading shall produce slopes that are continuous in grade with the existing landform. Manufactured slopes shall substantially conform to the natural slope of each lot.
   b) Cut and fill for driveways and parking areas are not to exceed 3:1 side slopes.
   c) Building walls are not to exceed 18 feet above the adjacent natural grade on all sides.

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10. The covenants shall bear the certification of the attorney who prepared or reviewed them, that such attorney is licensed to practice law in the State of Montana, and that they contain the applicable provision required by the Missoula County Subdivision Regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

11. The following shall appear on the face of the plat and each instrument of conveyance:

    "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owners to any future RSID/ SID for the construction of City sewer main to serve these lots, and for upgrading of Gleneagle Way and Grant Creek Road, based on benefit, to include the installation of sidewalks and may be used in lieu of their signatures on an RSID/SID petition.

12. City of Missoula standard STEP system tanks shall be installed for all lots.

13. Approach permits onto Gleneagle Way shall be reviewed and approved by the Missoula County Surveyor's Office.

14. The developer shall enter into a covenant that shall run with the land guaranteeing that the lots will never be subdivided into parcels less than 5 acres without the mutual consent of the County Commissioners and the subdivision property owners and that all parcels in the subdivision will be used for single-family dwellings. This shall fulfill the Waiver of Parkland requirements of Section 3-8(2)(E) of the Missoula County Subdivision Regulations.

15. A vehicle pullout shall be constructed at the intersection of Grant Creek Road and Gleneagle Way. This pullout shall be of sufficient size and location to allow placement of mailboxes and newspaper tubes to serve these lots and allow for service to any additional development along Grant Creek Road in this area. This pullout shall also be of sufficient size to allow for garbage pickup and for school buses to safely pull off and onto Grant Creek Road while picking up and delivering students. The pullout design and construction shall be subject to the approval of the County Surveyor, the City Engineer, the U.S. Postal Service, and the Superintendent of Hellgate Elementary School. The pullout shall be part of the improvements guarantee for this project and is contemplated to be part of the improvements guarantee for those other parcels of land in the Gleneagle development using the pulloff.

16. An additional public easement for walkway/bikeway (sidewalk) purposes shall provided by the developer adjacent to Gleneagle Way, if deemed necessary by the County Surveyor. It is contemplated that said access will be extended along Grant Creek Road in the Gleneagle Development Plan.

17. The 200-foot and 150-foot no-improvement zones between Lots 1&2 and 2&3, respectively, in the adjacent proposed Meadows of Grant Creek subdivision, shall continue into Lot 1 and Lot 2 of this subdivision. No construction shall be allowed, including structures fences, roads or driveways. The centerlines of the zones shall follow the gulleys which they were designed to protect. These zones, or any exception to them, are subject to the approval of the County Commissioners and the Rural Planning Office.

18. Buildings sites shall generally be located within those areas that contain less than 25% slope as shown on Exhibit A.

19. There shall be no construction, including roadways, on any slope greater than 25%.

20. Driveways shall be shared where possible and locations approved by the County Surveyor and the City Engineer.

The motion carried on a vote of 3-0.

PUBLIC COMMENT: RIVER ROAD ADDITION

Linda Snyder, resident of River Road, asked about the petition process to defeat the proposed River Road Addition. She asked that the Board direct her to the agencies who have the authority to find the exact area the petition drive should cover, what form the petition should follow and any other procedures pertinent to produce a valid petition. She asked who will review the completed petition? She thanked the Commissioners for the opportunity to be more involved and informed in the community.

At this time Barbara Evans left to attend another meeting.

Ron Ewart explained that the Office of Community Development can provide the district's boundaries. He recommended that Linda speak to Jennie Dixon, Zoning Planner, or Philip Maechling, Zoning Officer.

Michael Sehestedt, Deputy County Attorney, said the County will accept any written protest which identifies who is protesting and what they are objecting to. There is no magic form. Anything that is submitted which identifies who and what they are protesting will suffice. The Clerk and Recorder's Office will research whether or not the names on the protest letters or petitions are valid property owners. Petitions are usually easier than individual letters to organize, but letters and petitions will be counted and valid. The petition doesn't have to follow any format; the format is not controlled by Statute.

Vickie Zeier, Clerk and Recorder/Treasurer, explained that her office does not look at the format of the petition or any letters of protest. Using a map of the district boundaries provided by the Office of Community Development, they compare names of the record owners of the area obtained from the Assessor's Office with the map and compile this information on a database system. If there is a conflict on the petition, the Clerk and Recorder's Office double checks the conflict and can provide a reason why the person was not counted. As soon as the letters and petitions come in, they are recorded in the computer on the database.

Ann Mary Dussault explained that any protest letters received by the Board of County Commissioners are forwarded to the Clerk and Recorder's Office. Whatever form the protest comes in as, they will be counted. After the list is certified by the Clerk and Recorder's Office it is given back to the Commissioner's Office.

Vickie Zeier invited Linda to review other petitions which have been turned in.

RECONSIDERATION OF: THE MEADOWS OF GRANT CREEK - SUMMARY PLAT

Ann Mary Dussault explained that the Board of County Commissioners last considered this proposal on June 30, 1993.

Ron Ewart, Planner at the Office of Community Development, explained that the staff report remained the same as on June 30, 1993, as follows:

The Meadows of Grant Creek is a proposed four (4) lot, single-family subdivision. Lots range in size from 4.27 acres to 5.85 acres. The total project covers 20.47 acres. The proposed subdivision is located in the NE¼ and SE¼ of Section 32, T14N, R19W, P.M.M. The property is on a west-facing slope and is in the county.

He said there has been an improvement in the proposal, but there hasn't been enough change. Many of the staff's concerns deal with the natural environment and chose to stay with the staff report of June 30th. The Office of Community Development staff recommended denial of the Summary Plat of the Meadows of Grant Creek based on the following reasons:

1. The proposal is not in compliance with the Missoula Urban Comprehensive Plan. The Plan designates this area for a maximum of one (1) dwelling unit per forty (40) acres. Proposed are five (5) to five and three-quarters (5 3/4) acre tracts.

2. The status of the zoning of the land is in question.

3. Disturbing the land may have some significant negative impacts on such factors associated with the slope, such as drainage, erosion control, landform and vegetation.

4. Significant negative impacts on wildlife habitat, distribution, and abundance may occur if development at the proposed level is allowed to occur.

5. The slope of the sites proposed for the driveway, drainfields and building sites are great enough to pose potential health and safety problems.

6. The Missoula County Inventory of Conservation Resources has determined that the project is located on lands that are listed as scenic open spaces as viewed from roads, rivers and creeks.

He submitted conditions of approval for the summary plat as follows:

1. Sanitary restrictions be lifted by State and local health authorities.

2. The first twenty (20) feet of all driveways shall be paved and shall not exceed 5% grade. The remaining portion of the driveway shall be surfaced with well-draining gravel and shall not exceed 12% grade. Driveways shall provide for two (2) off-street parking spaces.

3. Driveway design plans, including grading and turnarounds, shall be subject to the approval of the City Engineer, County Surveyor, City Fire Department and Rural Fire Department.

4. All utilities must be installed underground and utility easements must be shown on the plat.

5. The developer shall provide for appropriate easements which shall be shown on the face of the plat.

6. The covenants shall:
   a) Address wildland fire protection, wildlife habitat enhancement and protection, weed control, and scenic & ecological values. Such language shall be subject to the approval of the OCD and Rural Planning;
   b) Contain a sentence that requires homeowners to leash or fence all dogs.
   c) Recommend the planting of native plant species and that pest and weed management be performed through natural means, without use of toxic pesticides, herbicides, and insecticides unless approved by the County extension office.
   d) Contain a sentence that notifies homeowners that gardens, compost piles, and ornamental trees and shrubs attract wildlife, thereby creating the potential for adverse human/wildlife encounters. The covenants shall recommend homeowners fence gardens to at least 8 feet high, discouraging use of barbed wire and/or other loose wire. The covenants shall also recommend homeowners obtain a copy of Living with Wildlife either from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, 523-4657, or Rural Planning, Missoula County Courthouse Annex, 200 W. Broadway, Missoula, MT 59802, 523-3484. Where feasible, a copy of Living with Wildlife should be given to lot purchasers; and,
   e) Recommend that houses shall minimize exterior lighting. Options may include using motion detecting exterior lighting or a lighting scheme that places lights no higher than 3 feet above the ground. Specific language shall be subject to approval by the OCD.
   f) Recommend that homeowners store barbecue grills indoor and keep them clean.
   g) Pets shall be fed indoors and their food stored indoors, and garbage should be stored indoors or when outdoors in an animal-proof container.

7. All easements shall be shown on the face of the plat.

8. Deed restrictions shall be placed in all instruments of conveyance prohibiting perimeter fencing.

9. The developer shall comply with the following design standards:
   a) Grading shall produce slopes that are continuous in grade with the existing landform. Manufactured slopes shall substantially conform to the natural slope of each lot.
   b) Cut and fill for driveways and parking areas are not to exceed 3:1 side slopes.
   c) Building walls are not to exceed 18 feet above the adjacent natural grade on all sides.

10. The covenants shall bear the certification of the attorney who prepared or reviewed them, that such attorney is licensed to practice law in the State of Montana, and that they contain the applicable provision required by the Missoula County Subdivision Regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

11. The following shall appear on the face of the plat and each instrument of conveyance:

    "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owners to any future RSID/ SID for the construction of City sewer main to serve these lots, and for upgrading of Gleneagle Way and Grant Creek Road, based on benefit, to include the installation of sidewalks and may be used in lieu of their signatures on an RSID/ SID petition.

12. City of Missoula standard STEP system tanks shall be installed for all lots.

13. Approach permits onto Gleneagle Way shall be reviewed and approved by the Missoula County Surveyor's Office. Approach permits onto Grant Creek Road shall be approved by the City Engineer.

14. Cash-in-lieu of parkland shall be paid to Missoula County to satisfy the parkland requirement prior to filing of the final plat.

15. A vehicle pullout shall be constructed at the intersection of Grant Creek Road and Gleneagle Way. This pullout shall be of sufficient size and location to allow placement of mailboxes and newspaper tubes to serve these lots and allow for service to any additional development along Grant Creek Road in this area. This pullout shall also be of sufficient size to allow for garbage pickup and for school buses to safely pull off and onto Grant Creek Road while picking up and delivering students. The pullout design and

construction shall be subject to the approval of the County Surveyor, the City Engineer, the U.S. Postal Service, and the Superintendent of Hellgate Elementary School. The pullout shall be part of the improvements guarantee for this project and is contemplated to be part of the improvements guarantee for those other parcels of land in the Gleneagle development using the pulloff.

16. A 10-foot public walkway easement shall be shown on the plat adjacent to Grant Creek Road right-of-way along the entire length of the property. This easement shall be subject to the approval of the City Engineer.

17. There shall be a 200-foot. a 100-foot, and a 50-foot no-improvement zone between Lots 1&2 and Lots 2&3, respectively, in order to protect wildlife habitat. These zones, shall be approved by the County Commissioners and the Rural Planning Office.

18. There shall be no construction, including roadways, on any slope greater than 25%.

19. Buildings shall be generally located within those areas that contain less than 25% of slope as shown on Exhibit A.

20. Driveways shall be shared where possible and their locations approved by the County Surveyor and the City Engineer.

Andy Fisher, Eli & Associates, wondered about Condition #14 regarding the cash-in-lieu requirement; the parcels are all five acres or more.

Ron Ewart said if this was the case, he recommended the same language for Meadow Heights of Grant Creek be used. He said Exhibit A from Meadow Heights of Grant applies to the Meadows of Grant Creek as well.

A discussion ensued relative to Condition #19 as it referred to Exhibit A. Exhibit A did not allow for building sites on the lower end of the plat. It was concluded that the slopes for the homesites did not exceed 25%, as verified by an affidavit submitted by Andy Fisher at the June 30th meeting. It was suggested that Condition #19 be deleted; Condition #18 basically took care of the conflict.

Wally Congdon said the access issue has been addressed in the proposal in several ways: 1) the installation of the pull-out zone at the intersection of Gleneagle Way and Grant Creek Road which will deal with the problems of mail, traffic, and school bus stopping with children. The mailbox portion will be located on the south side of the intersection, the school busses will load on the north side of the intersection. There is a verbal agreement with the parties involved as to how this pull-out will be paid for. 2) The design before the Board is not perfect because there is still an access onto Grant Creek Road. However, it minimizes roadways that cut across the lots to serve portions of this land. If Gleneagle was to serve this subdivision, this would lead to tremendous fills and cuts which are scars they want to prevent. Minimizing roads is important to minimizing driveways in the no-improvement zones. The one access onto Grant Creek Road minimizes the impact and preserves the amenities for the subdivision. 3) The building sites and slope questions are identified on the map and were addressed in Conditions 18 and 19.

He said the County and the developers, along with the residents of the Grant Creek area, are now at a place where they weren't on June 30th. A development plan is in place as well as a conservation plan for this and adjoining properties. The various developments in the area will have to conform to the development/conservation plan which will save amenities and addresses the safety hazards of Grant Creek Road, etc. The developer will probably go further to ensure that the Meadows and the Meadow Heights project conform and are harmonious with each other and with the neighborhood. He submitted two photographs of the driveway access point.

Bill Brunner, Vice President of the Friends of Grant Creek, spoke about the comments made by Ann Mary Dussault on June 30, 1993, when she said that this subdivision was not appropriate as presented and suggested that the developer work with the adjacent property owners to come up with a more appropriate plan for the area. He said unfortunately this did not happen. The proposed subdivision did not change from June 30th, although some of the conditions address some of the problems. He commented about Condition #16 and suggested that "the right-of-way" be added. He said the group felt that the Meadows of Grant Creek and Meadow Heights of Grant Creek could have been combined into a forty acre parcel; some innovative planning could have been done with the same number of homes with no access onto Grant Creek Road. The Friends of Grant Creek have some concerns if this subdivision is approved: 1) more than a verbal agreement should be made relative to the bus turn-out; 2) the school board should be involved in the planning for the bus pull-out.

Ann Mary Dussault commented that the school superintendent will be involved in this planning. The bus pull-out is a condition of subdivision approval. Even if the verbal agreement falls apart, this requirement has to be filled.

OCTOBER 6, 1993 (CONT.)

Bill Brunner commented that the group would like the addition of garbage collection and newspaper delivery. He wondered if there could be some guarantee of snow removal for the walkway. The children will not use the walkway if it is covered with snow. He stated there has been a lot of confusion with the names of the subdivisions. Several of the subdivisions in this area have the word "Meadow"; could the name be changed?

A discussion ensued relative to Gleneagle Way. It was concluded that Gleneagle Way is a County-owned road and the gate and barricades were installed by the County. The public has non-motorized access into this area.

Fern Hart asked about the walkway easement.

Ron Ewart said on Grant Creek Road, they know exactly what the right-of-way is and that 10 additional feet will be necessary for the walkway. The staff suggested right-of-way because it would be dedicated to the public. However, asking the property owners to clear the right-of-way could cause problems. If it is dedicated right-of-way, snow removal may have to come from the County.

Michael Sehestedt said the right-of-way is an easement for public transportation purposes. When the County acquires right-of-way, an easement is acquired for transportation and other related purposes. If an easement is acquired for public walkway purposes, it is a public walkway right-of-way. The two terms, in this application, are interchangeable.

Ann Mary Dussault asked if the developer intended the newspaper and garbage pickup to be in same area as the pull-out?

Wally Congdon said this was their intent. This area is planned for the other property owners who live on Gleneagle Way as well. When the other subdivisions have come before the Commissioners, a structure could be constructed that will be aesthetically pleasing to house the garbage dumpster. He said the newspaper comes early in the day before the traffic starts. They have not considered where the newspaper tubes could be located.

Kim Birck, Secretary of the Friends of Grant Creek, explained that the problem occurs when people pick up their mail and newspaper on the way home. She suggested that it would make sense to put the newspaper tubes with the mailboxes.

Ann Mary Dussault agreed with the suggestion of putting the newspaper tubes with the mailboxes.

Wally Congdon stated the developers had no problem with this.

Ron Ewart suggested language which added newspaper tubes to the pull-out location.

A discussion ensued relative to the location of the mailboxes and newspaper tubes. It was concluded since this is a condition of approval and is required, that the location of the mailboxes and the newspaper tubes be left to work itself out. This will allow some flexibility and allow comments from the school board, the Surveyor's Office, and the City Engineer.

Wally Congdon requested an amendment on Condition #16 be added: "It is contemplated that said access will be extended along Grant Creek Road through other properties incorporated in the Gleneagle Development Plan." The developers want to create an easement strip to allow a walkway to be put in at a later time.

At this time, Ann Mary Dussault reviewed each of the conditions suggested by the OCD staff and the developers. The changes and amendments are reflected in the final motion.

A discussion relative to the pull-out ensued. Wally Congdon commented that the developers wanted the last sentence in Condition #16 added to the record to memorialize the overall understanding and requires that this condition is part of the capital improvements bond. He said they do not anticipate the construction to begin for the next few months to figure out exactly what the pull-out will look like. The developers do not want the construction to hold up the filing of the plat. He said they anticipate coming back to the Commissioners with the design and the cost of the project.

Michael Sehestedt said it is standard to allow final filing with the bond.

A discussion ensued relative to snow removal on the walkway.

Ann Mary Dussault said that the Commissioners are not creating a walkway, but an easement for a future walkway. The walkway will be in the public right-of-way; when it is created, it will be up to the entity creating the walkway to determine the maintenance of it.

OCTOBER 6, 1993 (CONT.)

Michael Sehestedt explained that the walkway could also be called a sidewalk. Grant Creek Road is a City street; by City Ordinance, the property owners within the City always keep the sidewalks cleared in front of their property.

Fern Hart moved and Ann Mary Dussault seconded the motion to approve the Meadows of Grant Creek Summary Plat based on the Findings of Fact in the June 30, 1993 staff report and subject to the following conditions:

1. Sanitary restrictions be lifted by State and local health authorities.

2. The first twenty (20) feet of all driveways shall be paved and shall not exceed 5% grade. The remaining portion of the driveway shall be surfaced with well-draining gravel and shall not exceed 12% grade. Driveways shall provide for two (2) off-street parking spaces.

3. Driveway design plans, including grading and turnarounds, shall be subject to the approval of the City Engineer, County Surveyor, City Fire Department and Rural Fire Department at the time of issuance of the building permits.

4. All utilities must be installed underground and utility easements must be shown on the plat.

5. The developer shall provide for appropriate easements which shall be shown on the face of the plat.

6. The covenants shall:
   a) Address wildland fire protection, wildlife habitat enhancement and protection, weed control, and scenic & ecological values. Such language shall be subject to the approval of the OCD and Rural Planning;
   b) Contain a sentence that requires homeowners to leash or fence all dogs.
   c) Recommend the planting of native plant species and that pest and weed management be performed through natural means, without use of toxic pesticides, herbicides, and insecticides unless approved by the County extension office.
   d) Contain a sentence that notifies homeowners that gardens, compost piles, and ornamental trees and shrubs attract wildlife, thereby creating the potential for adverse human/wildlife encounters. The covenants shall recommend homeowners fence gardens to at least 8 feet high, discouraging use of barbed wire and/or other loose wire. The covenants shall also recommend homeowners obtain a copy of Living with Wildlife either from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, 523-4657, or Rural Planning, Missoula County Courthouse Annex, 200 W. Broadway, Missoula, MT 59802, 523-3484. Where feasible, a copy of Living with Wildlife should be given to lot purchasers; and,
   e) Recommend that houses shall minimize exterior lighting. Options may include using motion detecting exterior lighting or a lighting scheme that places lights no higher than 3 feet above the ground. Specific language shall be subject to approval by the OCD.
   f) Barbecue grills shall be stored indoors and cleaned regularly.
   g) Pet food shall be stored indoors. Garbage shall be stored in an animal-proof container.

7. All easements shall be shown on the face of the plat.

8. Deed restrictions shall be placed in all instruments of conveyance prohibiting perimeter fencing.

9. The developer shall comply with the following design standards:
   a) Grading shall produce slopes that are continuous in grade with the existing landform. Manufactured slopes shall substantially conform to the natural slope of each lot.
   b) Cut and fill for driveways and parking areas are not to exceed 3:1 side slopes.
   c) Building walls are not to exceed 18 feet above the adjacent natural grade on all sides.

10. The covenants shall bear the certification of the attorney who prepared or reviewed them, that such attorney is licensed to practice law in the State of Montana, and that they contain the applicable provision required by the Missoula County Subdivision Regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

11. The following shall appear on the face of the plat and each instrument of conveyance:

    "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owners to any future RSID/ SID for the construction of City sewer main to serve these lots, and for upgrading of Gleneagle Way and Grant Creek Road, based on benefit, to include the installation of sidewalks and may be used in lieu of their signatures on an RSID/ SID petition.

OCTOBER 6, 1993 (CONT.)

12. City of Missoula standard STEP system tanks shall be installed for all lots.

13. Approach permits onto Gleneagle Way shall be reviewed and approved by the Missoula County Surveyor's Office. Approach permits onto Grant Creek Road shall be approved by the City Engineer.

14. The developer shall enter into a covenant that shall run with the land guaranteeing that the lots will never be subdivided into parcels less than 5 acres without the mutual consent of the County Commissioners and the subdivision property owners and that all parcels in the subdivision will be used for single-family dwellings. This shall fulfill the Waiver of Parkland requirements of Section 3-8(2)E of the Missoula County Subdivision Regulations.

15. A vehicle pullout shall be constructed at the intersection of Grant Creek Road and Gleneagle Way. This pullout shall be of sufficient size and location to allow placement of mailboxes and newspaper tubes to serve these lots and allow for service to any additional development along Grant Creek Road in this area. This pullout shall also be of sufficient size to allow for garbage pickup and for school buses to safely pull off and onto Grant Creek Road while picking up and delivering students. The pullout design and construction shall be subject to the approval of the County Surveyor, the City Engineer, the U.S. Postal Service, and the Superintendent of Hellgate Elementary School. The pullout shall be part of the improvements guarantee for this project and is contemplated to be part of the improvements guarantee for those other parcels of land in the Gleneagle development using the pulloff.

16. A 10-foot public walkway/bikeway easement shall be shown on the plat adjacent to Grant Creek Road right-of-way along the entire length of the property. This easement shall be subject to the approval of the City Engineer. It is contemplated that said access will be extended along Grant Creek Road through other properties incorporated in the Gleneagle Development Plan.

17. There shall be a 200-foot and a 150-foot no-improvement zone between Lots 1&2 and Lots 2&3, respectively, in order to protect wildlife habitat. No roads, fences, or structures shall be constructed within. These zones, or any exception to them, shall be approved by the County Commissioners and the Rural Planning Office.

18. There shall be no construction, including roadways, on any slope greater than 25%.

19. There shall be a 200-foot building setback from Grant Creek Road.

20. Driveways shall be shared where possible and their locations approved by the County Surveyor and the City Engineer.

The motion carried on a vote of 2-0.

Ann Mary Dussault said if she could have been "queen for a day", she would have preferred to deal with a development proposal, not a subdivision of land. Had this happened, clustering homes closer together could have been accomplished. She acknowledged Vern Young who played a significant role in bringing the private land owners together on an overall proposal which, in the end, will cause less density to occur in this area. This action is not a reward, but is a result of the plan adopted.

Fern Hart said this is an example of what can be accomplished with give and take between government and the developers.

Ann Mary Dussault said to her knowledge, this is the first time the Commissioners have adopted hillside development standards as conditions of approval.

Ken Knie commended and congratulated everyone involved.

There being no further business to come before the Board, the Commissioners were in recess at 3:45 p.m.

OCTOBER 7, 1993

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

DAILY ADMINISTRATIVE MEETING

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

OCTOBER 7, 1993 (CONT.)

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences (DHES) for the purposes of operating a testing, counselling, referral, and partner notification service center to assist in preventing the spread of the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), conducting an early intervention program (EIP) for those recently diagnosed as HIV positive, and conducting an AIDS community health education and risk reduction (HE/RR) project, as per the terms set forth, for the period from July 1, 1993 through June 30, 1995, with payment up to a maximum of $24,400.00 during the period of July 1, 1993 through June 30, 1994, with the funding for the second year to be determined whenever it becomes available and added to the Agreement by contract modification. The Agreement was forwarded to DHES for further handling.

Perpetual Easement, Consent and Approval to Trail and Building

Commissioner Ann Mary Dussault signed a Perpetual Easement, Consent and Approval to Trail and Building whereby Missoula County grants to the City of Missoula a 10-foot wide trail easement which traverses Lot 2 of Gateway Gardens No. 2, for construction of a greaveled trail and approves the building to be constructed by Friends to Youth, Inc., as per the terms set forth. The documents were returned to attorney Ralph Kirscher for further handling.

Resolution No. 93-073

The Board of County Commissioners signed Resolution No. 93-073, a Resolution of Intent to rezone from "C-RR3 to C-R1, with a Planned Unit Development overlay, property described as a portion of Lot 20 of Cobban and Dinsmore Orchard Homes located in the NW1/4 of the NW1/4 of Section 20, T13N, R19W, P.M.M.

Resolution No. 93-074

The Board of County Commissioners signed Resolution No. 93-074, a Resolution of Intention to create Rural Special Improvement District No. 8456, for the construction of a sewer main extension along Hendricksen Drive, Missoula County, setting the hearing date for October 20, 1993 at 1:30 p.m.

Agreement

The Board of County Commissioners signed a Loan Agreement between Missoula County and Charles G. Jerke and Candace V. Jerke dba Medicine Bow Motors, for the purpose of economic development assistance to increase employment opportunities for low and moderate income persons, as per the terms set forth, for a loan amount of $40,000.00, with funds available through grants awarded to Missoula County under the Montana State Community Development Block Grant (CDBG) Program.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and WIN WIN Meetings, an independent contractor, for the purpose of facilitating four meetings with the Seeley Lake Community Council, as per the terms set forth, for the period commencing June 15, 1993 through September 1, 1993, for compensation in the amount of $1,048.00. The Contract was returned to John DeVore, Administrative Officer, for further signatures and handling.

Interlocal Agreement

The Board of County Commissioner signed an Interlocal Agreement for administration of the Missoula City-County Affordable Homeownership Program between Missoula County and the City of Missoula for the purpose of enabling the City and the County to administer jointly the Missoula City-County Affordable Homeownership Program funded by the HOME Investment Partnership Program (HOME) as per the terms set forth, with funds available in the the amount of $660,000 received from a joint HOME grant.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

OCTOBER 8, 1993

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

OCTOBER 8, 1993 (CONT.)

Monthly Report

Chair Ann Mary Dussault examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending, September 30, 1993.

Modification of Agreement

Chair Ann Mary Dussault signed a Modification of Agreement between Missoula County and The Montana Department of Health and Environmental Sciences to modify the terms of the agreement between them concerning administration of a local MIAMI project (DHES No. 340075), in order to expand MIAMI services to the Seeley Lake/Condon area and Powell County and to serve approximately 20 additional high risk pregnant women per year, as set forth in the Modification. The document was forwarded to DHES.

Resolution No. 93-075

The Board of County Commissioners signed Resolution No. 93-075, a resolution fixing tax levies for Missoula County for Fiscal Year 1993-94 as follows:

RESOLUTION NO. 93-075
FIXING TAX LEVIES FOR MISSOULA COUNTY
FOR FISCAL YEAR 1993-1994

WHEREAS, the Board of County Commissioners of Missoula County, Montana, has approved and adopted the budget for Fiscal Year 1993-1994, as required by law; and

WHEREAS, budgets have been received from various taxing entities; and

WHEREAS, hearings have been held in compliance with State law and in reference to the number of mills levied; and

WHEREAS, the value of a mill has been determined as $133,222 County-wide, and a value of $71,059 outside the City limits, with other values as stated and certified by the Department of Revenue, State of Montana;

NOW, THEREFORE, BE IT HEREBY RESOLVED by this Board of County Commissioners that the Resolution be adopted for Fiscal Year 1993-1994 as moved, seconded and passed by the Board and as detailed below:

MISSOULA COUNTY-WIDE FUNDS	MILLS	ATTACHMENT
General Fund	40.22	A and B
Bridge Fund	3.84	
Poor Fund	3.43	
Fair Fund	1.42	
Museum Fund	1.68	
Extension Fund	1.25	
Weed Fund	0.65	
Planning Fund	1.54	
District Court Fund	6.93	
Mental Health Fund	0.47	
Developmentally Disabled	0.08	
Aging Fund	0.76	
Park/Recreation Fund	.94	
Risk Management	1.89	
Child Daycare	0.22	
Open Space	0.41	
Library	4.48	
SUB-TOTAL	**70.21**	
MISSOULA COUNTY-WIDE DEBT SERVICE		
RSID Revolving	.48	
G O Issue (Computer)	1.00	
SUB-TOTAL	**1.48**	
TOTAL COUNTY-WIDE & DEBT SERVICE LEVIES	**71.69**	
Road Fund	13.43	
Health Fund	7.30	
TOTAL COUNTY-ONLY LEVY	**20.73**	
CITY OF MISSOULA	135.06	
MISSOULA COUNTY SCHOOLS	VARIOUS (SEE ATTACHMENT)	

OCTOBER 8, 1993 (CONT.)

STATE OF MONTANA	
UNIVERSITY MILLAGE FUND	6.00
STATE ASSUMPTION/CNTY WELFARE	9.00
STATE SCHOOL FOUNDATION	40.00
SPECIAL FIRE DISTRICTS	
CLINTON RURAL	27.05
MISSOULA RURAL	43.50
ARLEE/JOCKO VALLEY RURAL	10.66
FLORENCE-CARLTON RURAL	16.63
EAST MISSOULA RURAL	12.79
FRENCHTOWN RURAL	11.34
SEELEY LAKE	17.39
OTHER SPECIAL DISTRICT LEVIES	
SOIL CONSERVATION	1.45
S.O.S. HEALTH CENTER	9.00
CARLTON CEMETERY	1.34
MISSOULA URBAN TRANSIT	9.82
SPECIAL ASSESSMENT DISTRICTS	
LOLO MOSQUITO	VARIOUS (SEE ATTACHMENT)
JOCKO IRRIGATION	VARIOUS (SEE ATTACHMENT)
FRENCHTOWN IRRIGATION	VARIOUS (SEE ATTACHMENT)
MISSOULA IRRIGATION	VARIOUS (SEE ATTACHMENT)
FOREST FIRE PROTECTION ASSTN	VARIOUS (SEE ATTACHMENT)
ELK MEADOWS WATER DISTRICT	VARIOUS (SEE ATTACHMENT)
SEELEY LAKE REFUSE DISTRICT	VARIOUS (SEE ATTACHMENT)
BIG FLAT IRRIGATION	VARIOUS (SEE ATTACHMENT)
LORRAINE SO. WATER DISTRICT	VARIOUS (SEE ATTACHMENT)
CLINTON IRRIGATION	VARIOUS (SEE ATTACHMENT)
GREENOUGH/POTOMAC VOLUNTEER FIRE	VARIOUS (SEE ATTACHMENT)
SPECIAL IMPROVEMENT DISTRICTS	VARIOUS (SEE ATTACHMENT)
WATER QUALITY DISTRICT	VARIOUS (SEE ATTACHMENT)

OCTOBER 11, 1993

The Missoula County Courthouse was closed in observance of the Columbus Day holiday.

OCTOBER 12, 1993

The Board of County Commissioners met in regular session, a quorum of the Board were present. Commissioner Dussault was on vacation thorugh October 12th-15th.

Monthly Report

Acting Chairman Barbara Evans examined, approved and ordered filed the Monthly Report of Sheriff Douglas W. Chase, showing items of fees and other collections on account of Civil Business in Missoula County for month ending September 30, 1992.

Monthly Report

Acting Chairman Barbara Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending September 30, 1993.

DAILY ADMINISTRATIVE MEETING

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

Professional Service Contract

The Board of County Commissioners signed a professional services contract between Missoula County and Richard Chapman, an independent contractor, for the purpose of creating a plan and materials for 100 years of Public Health Nursing campaign and program promotion, as per the items and terms set forth and under the supervision of the Missoula City-County Health Department, commencing October 6, 1993, through December 31, 1993, for a total payment not to exceed $2,500.00. The Contract was returned to the City-County Health Department for further handling.

OCTOBER 12, 1993 (CONT.)

Other items included:

1) the Commissioners appointed Cindy Klette to replace John Devore on the Human Resource Council Board; and
2) the Commissioners approved $5,000.00 to acquire information from the University of Montana's GAP Analysis Project for inclusion in the GIS data base, with funds available from the Open Space Fund.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

OCTOBER 13, 1993

The Board of County Commissioners met in regular session, a quorum of the Board were present.

Audit List

Acting Chairman Barbara Evans and Commissioner Fern Hart signed the Audit List, dated October 13, 1993, pages 2-32, with a grand total of $179,131.44. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

1) the Commissioners appointed John Gordon as an alternate member of the Airport Authority.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Acting Chairman Barbara Evans. Also present was Commissioner Fern Hart.

BID AWARD: CONSTRUCTION BIDS & BOND BIDS - RSID NO. 8454 (SANITARY SEWER MAIN EXTENSION TO SERVE BLOCK 1 - MACLAY ADDITION

Barbara Evans explained from information received from Jesse Sattley, RSID Coordinator, that one bid for the Construction bids for RSID No. 8454 was received as follows:

L.S. Jensen & Sons	$ 38,890 with Alt. 1

Two bids were received for Bonds for RSID No. 8454 as follows:

Arthur & Lorraine Richardson	5.85%
Sue Hoell	6.30%

The staff recommended that action be postponed on the awards of the Construction bid and Bonds for RSID No. 8454 for the Maclay Addition sewer for one week until the Public Meeting on October 20, 1993. The construction bids came in higher than expected. The district petitioners needed to be consulted before the bid was awarded. If the petitioners are willing to accept the increased cost of the project, the bid will be awarded.

Barbara Evans stated the Construction Bids and Bonds for RSID No. 8454 for the Maclay Addition sewer will be postponed for one week until the Public Meeting on October 20, 1993.

BID AWARD: 100' X 200' METAL ROOF STRUCTURE - FAIR

Barbara Evans explained from information received from Sam Yewusiak, Fair Manager, that a bid was received for a 100 foot x 200 foot metal roof structure in the amount of $269,000. The budget for the project had been set at $100,000. The staff recommended that the bid specs be reassessed and the bid be re-let. The Fair Board requested to reconsider the project at a later date.

OCTOBER 13, 1993 (CONT.)

Fern Hart moved and Barbara Evans seconded the motion to reject all bids for the 100'x200' metal roof structure for the Fair contingent upon confirmation from the Fair Board that they wish to reject all bids. The motion carried on a vote of 2-0.

PUBLIC COMMENT: RIVER ROAD ADDITION

Dick Baker, 612 North Curtis, requested clarification of further action on the current River Road project. The residents will submit a petition containing more than the required signatures of freeholders in this zoning district. If more than 40% object within the zoning district, will the petition successfully stop the proposed 16 units? If the zoning is successful, can the developers use the current zoning along with a PUD to put 14 units on the property? He said this is not fair to the people working on the petition. He asked would the petition stop the project or will it kill only two of the 16 units proposed? The density the developers are requesting is still above acceptable levels for the neighborhood. He wondered about the value of the County's zoning ordinance if there are no assurances that the stability of their lifestyle will remain intact. The neighbors are bewildered and angry about misapplication of the PUD development as proposed in their community. He requested that his questions be answered in order to proceed with their lives.

Jeff Collins, resident of 2017 River Road, stated his opposition to the proposed zoning change to 16 units per acre. This is a significant and drastic change from the current C-RR3 zoning which allows 4 units per acre. He stated he supports wise planning and development. If the residents obtain significant signatures, can the developers go ahead with a PUD without public review?

Linda Snyder, resident of the area, agreed with the statements made by Jeff Collins and Dick Baker. If the petition is successful, can the residents be assured there will be a delay or stop altogether of the rezoning and the project? The residents are confused about what the petition will actually accomplish. Their opposition is clear and they want to be assured that the developers cannot build for at least one year.

Michael Sehestedt, Deputy County Attorney, explained that if the residents successfully protested the rezoning, the time frame for subsequent rezoning and PUD (which is a rezoning) is one year. No zoning can be proposed for a period of one year. However, this doesn't preclude development on the parcel. Under existing zoning, the property could be developed at 7 or 8 units with 1/4 acre minimum lots. If the petition is successful, there can be no zoning change for a period of one year. Building and development can happen if it is consistent with current zoning. This would allow 7 or 8 single family homes or 4 duplexes. Beyond the one-year period, there are no guarantees. The Planning Board and the Board of CountyCommissioners will decide after that year based on public interest and testimony what will occur at that site. Once the area is annexed, All County zoning lapses and the area would have to be rezoned under the City Zoning Ordinance. This may impact a start date or request for a project in this area. Should the City annex, it is quite possible the property will become unzoned and there will be no zoning protection. As long as it remains within the County, there can be no rezoning for a period of one year. The property could be developed tomorrow in accordance with existing zoning; if it annexed by the City, the zoning decision is theirs. City annexation takes an area completely out of the County zoning ordinance.

Dick Baker asked what the total number of freeholders was who reside in this zoning district? How is this number developed? Can the County's computer generate this list?

Michael Sehestedt explained that the names are compiled from the assessment books using a map of the area provided by the Assessor's Office.

Vickie Zeier, Clerk and Recorder/Treasurer, explained that the County computer does not generate a list. The Clerk & Recorder's Office obtains names from the Assessor's records. It will take three weeks during the 30-day protest period to obtain this list and get ready for the petition drive.

Dick Baker offered the help of the neighborhood to obtain those names so the work wouldn't have to be duplicated.

Barbara Evans wondered if this would be legal?

Michael Sehestedt said it is ultimately Vickie Zeier who signs off on this list. The names necessary to complete the list appear on the last assessment roll. The assessment rolls must be used to obtain this list. The books are available to the residents. Within the plat books in the Assessor's Office, there are subdivisions which cross reference to the owners of record. Acreage and non-divided land is found in the plat book. For contract for deed information, contract purchaser is referenced as the person with the right to protest. Lien holders are not freeholders. It is the person who owns the land, not the person who holds the lien that can be counted. If there are two people who own the property, they are both considered freeholders. It is not the property that votes, but the property owners who vote. Two property owners count as two freeholders.

Barbara Evans thanked Mr. Baker for his generous offer. She explained that it is up to Vickie to decide whether it was possible.

Vickie Zeier explained that during the 30-day protest period the Clerk & Recorder's Office will be gathering the list. When the deadline is up, they check the list against the petition.

Jeff Collins asked how much the Commissioners like the project? The Planning Board made recommendations which were not favorable to this project and part of the community was not in favor of this. When the petition is presented to the Commissioners, can the Commissioners authorize a PUD? Will they represent the residents or the developer?

Michael Sehestedt explained that a PUD, even if based on the current zoning, is a rezoning. A PUD based on existing zoning is a zone change and subject to the notice of Intention to Rezone and Protest. Because it is a zoning change, if the protest is successful and the project is defeated, no zoning change shall occur for one year. A subsequent PUD proposal would still be a zone change and would be barred by State Statute. This is only true if the property is zoned under the County zoning. If annexed, the area is subject to whatever changes might occur under the City's jurisdiction.

Jeff Collins requested that the Commissioners retain the neighborhood's quality of life and enforce the current and appropriate zoning.

Fern Hart commented on the question--how favorable are Commissioners to the project? The Board owes the community diverse housing developments. In the next five years, there will be more of these situations and there will be more upset neighbors. Criteria she looked at for this project was: 1) The project was affordable housing based on FHA regulations; 2) it is necessary for the Board to care for folks by allowing ownership of housing. They cannot continue to authorize only expensive housing units on the land left in Missoula County; and 3) there are four handicapped dwelling units.

Jeff Collins said these factors are important, but this neighborhood is not the place to do it.

Fern Hart stated that every neighborhood will say this.

Jeff Collins said if it is within the guidelines of the existing zoning, this would be appropriate. There is strip development from Missoula to Lolo--will zoning be left behind?

Fern Hart said this is a mandate.

Barbara Evans explained that the United States is continuing its population explosion. These people need a place to live. First time home buyers are being priced out; there are only expensive places available to buy. Out-of-staters can afford to buy these homes, but the local first time homebuyers are being priced out. Zoning is not cast in stone. The whole zoning process allows for rezoning to change the zoning as conditions change. Places need to be found to put affordable housing. As land resources dwindle, this makes for a bad predicament. What is best for the whole community may not be palatable to all.

Jeff Collins wondered as the density increased, would the costs also increase per unit? He stated that the Board is taking this issue to the extreme. The proposed zoning change is a drastic and significant change for this area. The neighbors would support 4-6 houses. However, the developers are asking for 16. The Board is not committed to long-range planning and adequate zoning which maintains their quality of life. There are millions of acres occupiable. This is a desirable area. He said there are areas available on the north side, the south hills and the Rattlesnake. He requested the Commissioners maintain the zoning so that companies like Wal-Mart can't change the zoning merely because they want it changed to accommodate them.

Gilbert Larson, DJ&A, addressed the residents by explaining what is occurring and what is being asked for by the developers. The current zoning allows 7-8 units. A PUD allows sensitive development and grants a bonus for density. With a PUD, the land at its present zoning could be developed at 14 units. The developers are proposing only two extra units which holds the costs down. The developers are asking for the extra two units. The developers can provide affordable housing and can meet with the neighborhood to cooperate with their expectations. He asked the residents to stand back and look at the project: the developers want to increase the PUD zoning by 2 units. In return, the developer is willing to work with the residents. The residents need to look at what they will be giving up if the zoning proposal is overturned.

Linda Snyder commented about all the meetings asking for the resident's input. Either she or her neighbors have attended all of the meetings and have given input. What were the meetings held for? What could they have said that mattered? They have been told that no matter what they do, the developers will be able to put in 14 units without any say from the residents. They feel they are wasting their time.

OCTOBER 13, 1993 (CONT.)

Michael Sehestedt said if the rezoning is successfully protested, for a period of one year, the property in question cannot be rezoned unless the area is annexed by the City. If it is annexed, the area would fall under City zoning. At the end of one year, the developers are free to reapply for another zoning change. The County cannot change the zoning for one year.

Dick Baker said the neighbors are committed to exceed the 40% needed to successfully protest the zoning. He requested that the Commissioners put a hold on the project and let annexation come in. The City will do something different anyway.

Barbara Evans explained that if the petition is successful, by law there is nothing the Board can do for one year.

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

OCTOBER 14, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-076

The Board of County Commissioners signed Resolution No. 92-076, a resolution of intention to create Rural Special Improvement District No. 8453 for the construction of sewer improvements for a portion of Southwest Missoula area - Lower Miller Creek/Linda Vista Area, Missoula County, Montana, setting the hearing date for October 27, 1993, at 1:30 p.m.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

OCTOBER 15, 1993

The Board of County Commissioners did not meet in regular session; Fern Hart was in Polson for a Mental Health Board Meeting.

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

OCTOBER 18, 1993

The Board of County Commissioners met in regular session, a quorum of the Board was present. Commissioner Dussault was on vacation through Friday, October 22nd.

DAILY ADMINISTRATIVE MEETING

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

Professional Security Agreement

The Board of County Commissioners signed an Agreement for Professional Security Services between the Missoula County Sheriff's Department and Bretz RV Center for the purpose of having uniformed officer(s) perform those functions as representatives of the Missoula County Sheriff's Department at the time and place specified, as requested, for the period from September 1, 1993 through September 1, 1994, as per the terms set forth in the Agreement. The Agreement was returned to the Sheriff's Department for further signatures and handling.

Addendum to Professional Services Contract

OCTOBER 18, 1993 (CONT.)

The Board of County Commissioners signed an Addendum to Missoula County Professional Services Contract between Missoula County and Carter & Burgess, Inc., acknowledging the acquisition of CRSS Civil Engineering, Inc., Denver Civil Engineering operations, by Carter & Burgess, Inc., and agree that Carter and Burgess is the successor to CRSS Civil Engineers, and agree the Professional Services Contract entered into by and between Missoula County and CRSS Civil Engineers shall now be deemed to be between Missoula County and Carter & Burgess, Inc., with all other provision of the contract, dated August 23, 1993, shall remain in full force and effect.

Modification of Subdivision Improvements Agreement and Guarantee

The Board of County Commissioners signed a Modification of Subdivision Improvements Agreement and Guarantee for Mullan Trail between Missoula County and David Theisen, modifying the Agreement signed June 2, 1993, substituting for Lot 6 of Block 2 of Mullan Trail, an alternate lot, being Lot 1, Block 1 of Mullan Trail Subdivision, will all other items remaining the same.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Payroll Transmittal Sheet for Pay Period #20 (9/12/93 through 9/25/93) with a total Missoula County Payroll of $443,896.11. The Transmittal Sheet was returned to the Auditor's Office.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

OCTOBER 19, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Service Contract between Missoula County and Mary Gallagher, Attorney-At-Law, an independent contractor, for the purpose of providing legal counsel for the pharmacy program feasibility study; intermediate policies for existing program; and final configuration and policies of chosen program model, as per the terms set forth, for the period commencing October 12, 1993, through February 28, 1994, for compensation not to exceed the amount of $5,500.00. The Contract was returned to the Health Department for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

OCTOBER 20, 1993

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

DAILY ADMINISTRATIVE MEETING

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

1) the Commissioners approved a contribution of $20,000.00 to aid in the construction of the Humble Road/Sundown Street paving project.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

PUBLIC MEETING

The Public Meeting was called to order by Acting Chairman Barbara Evans. Also present was Commissioner Fern Hart. Mayor Dan Kemmis also attended.

PROCLAMATION: RED RIBBON WEEK IN MISSOULA COUNTY

WHEREAS, the problems associated with illegal use of drugs have become prevalent in every community including the County of Missoula and the City of Missoula; and

WHEREAS, every community of the United States must turn its energies toward the battle against drugs in its own neighborhoods; and

WHEREAS, The National Federation of Parents for Drug Free Youth, Inc, national parent/community organizations, the CITY OF MISSOULA and the COUNTY OF MISSOULA are sponsoring the National Red Ribbon Campaign offering citizens the opportunity to demonstrate their commitment to drug-free lifestyles (no use of illegal drugs, no illegal use of legal drugs); and

WHEREAS, President Bill Clinton and Mrs. Clinton are the National Honorary Chairs and Governor Marc Racicot and Mrs. Racicot are the Honorary Chairs of Montana to provide national and state focus on a Drug Free America; and

WHEREAS, business, government, parents, law enforcement, media, medical, religious institutions, schools, senior citizens, service organizations and youth will demonstrate their continuing commitment to healthy, drug-free lifestyles by wearing and displaying Red Ribbons during this week-long campaign; and

WHEREAS, the City of Missoula and the County of Missoula **further commit** their resources to ensure the success of the Red Ribbon Campaign;

NOW, THEREFORE, BE IT RESOLVED that the Mayor of the City of Missoula and the Commissioners of Missoula County, Montana, do hereby jointly proclaim October 24 through October 30, 1993, as Red Ribbon Week, and encourage their citizens to initiate and participate in drug prevention education activities, making a visible statement that we are strongly committed to a drug-free community.

BE IT FURTHER RESOLVED, that the Mayor of the City of Missoula and the Commissioners of Missoula County, Montana, encourage all citizens to pledge: **DRUG FREE AND PROUD**.

Fern Hart moved and Mayor Dan Kemmis seconded the motion for the City and County of Missoula to adopt the Proclamation to jointly proclaim October 24 through October 30, 1993, as Red Ribbon Week. The motion carried on a vote of 3-0.

At this point, Mayor Kemmis left the meeting.

BID AWARD: 2 PASSENGER CARS - SHERIFF'S DEPARTMENT

Linda Kiltz, Central Services, explained that the Sheriff's Department recommended that the bid for the two passenger vehicles be awarded next week to give them an opportunity to look at the vehicles.

BID AWARD: UTILITY VEHICLE - ANIMAL CONTROL

Barbara Evans explained from information received from Don Zimmerman, Animal Control Supervisor, that bids were opened at 10:00 a.m., October 19, 1993, for a utility vehicle for Animal Control. Bitterroot Motors was the lowest bidder, but had to withdraw because they bid a manual transmission rather than one with an automatic transmission as was required by the bid announcement. Their bid cost with the proper transmission is still lower than Karl Tyler (which is the next lowest bid). Both the Ranger and S-10 4x2 extended cab are exceptional vehicles and meet the needs of the Animal Control Program. Karl Tyler Chevrolet's S-10 vehicle mileage (18 city/22 highway), is offered as an exception to the bid as it does not meet the bid specifications.

The staff recommended that bid award be postponed for three weeks to reopen the bidding process.

Linda Kiltz, Central Services, requested that the vehicles be rebid next week.

Don Zimmerman explained various problems which caused confusion among the bidders; because of an error, Bitterroot Motors, the lowest bidder, had to withdraw. For this reason, he requested that the process be started again in order to give everyone the opportunity to bid.

Michael Sehestedt, Deputy County Attorney, explained that the Commissioners have the option of rejecting all bids. It is within the discretion of the Commissioners, in light of the confusion, to reject and solicit bids again at a later date in time.

Fern Hart moved and Barbara Evans seconded the motion to postpone the action for three weeks in order to reopen and reoffer the bids for the Animal Control utility vehicle. The motion carried on a vote of 2-0.

Pete Kelly, Fleet Manager at Karl Tyler Chevrolet, the second lowest bidder, said Bitterroot Motors had an error in their bid. He read from the bid solicitations, which had no exceptions to the bid. He said Karl Tyler's bid contained no errors, met all the specifications and was the second lowest bidder. There is nothing in the bid

specification that would allow a withdrawal. The problem with all of this is that now the bids are a matter of public record and it will be a very simple process to come in under the bid amounts. This is neither fair or legal.

Michael Sehestedt said the fairness issue always comes up when a decision is made to rebid a project. Everyone has shown their hand in the initial bidding. The legality of it is the Commissioners can reject all bids. Animal Control requested an automatic transmission, but Bitterroot Motors bid on a standard transmission. However, the justification for rejecting all bids and rebidding would not be that one bid was non-conforming. It would be if there was sufficient confusion, possibly reflected by a failure of a number of potential vendors to bid, would justify the Commissioners as a matter of public policy in rejecting the bids.

Barbara Evans said what concerned her was that the mileage on the Karl Tyler vehicle didn't meet the bid specifications. The fact that there was confusion as to the closing date gave her reason to support the motion.

Barbara Evans stated that the bid award for the two passenger vehicles for the Sheriff's Department will be postponed for one week.

BID AWARD: CONSTRUCTION BIDS & BOND BIDS - RSID NO. 8454 (SANITARY SEWER MAIN EXTENSION TO SERVE BLOCK 1 - MACLAY ADDITION)

Barbara Evans explained from information received from Jesse Sattley, RSID Coordinator, that bond bids and construction bids were opened on October 12, 1993. The construction bids were much higher than estimated by the engineer, therefore creating a situation that would require the original petitioners to consider whether they would accept a project almost 50% higher in cost. The engineer for the project is currently re-evaluating the RSID with the petitioners.

The construction bids are intact for 30 days from opening to November 11, 1993. There is a verbal agreement with the low bidder of the bonds to purchase the extra amount needed and to hold the bid until November 19, 1993.

He recommended that the bid award be postponed until the engineer has a recommendation, but not to delay past November 11, 1993.

Fern Hart moved and Barbara Evans seconded the motion to postpone the award for the construction bids and bonds bids for RSID 8454, but not to delay past November 11, 1993. The motion carried on a vote of 2-0.

HEARING: ROCKY MOUNTAIN ELK FOUNDATION INDUSTRIAL DEVELOPMENT REVENUE BONDS REQUEST

John DeVore, Administrative Officer, explained that the Rocky Mountain Elk Foundation has requested that the Board of County Commissioners to consider the issuance of 3.6 million dollars in IDR Bonds to refinance and remodel their headquarters building. The purpose of this public hearing is to make a determination as to whether this project is in the public interest.

The staff has reviewed this request and has determined that it meets both the policy adopted by the Board and the statutory requirements.

The hearing was opened to public comment.

Bob Munson, Rocky Mountain Elk Foundation, gave a brief overview of the history of the foundation. In July of 1988, the foundation moved to Missoula after being incorporated in Troy, Montana in May of 1984. When the facility in Troy no longer met their needs, they looked.at facilities in Missoula, Kalispell & Bozeman as the foundation's permanent home. They moved to Missoula with 12 employees and currently employ about 80 people. They have grown to be an international organization with approximately 330 chapters throughout the United States and Canada with a $50 million budget. They also have a quarterly magazine with a distribution of approximately 200,000 copies. Missoula is the beneficiary of the tremendous wildlife interest and image that the Rocky Mountain Elk Foundation has. When they started in Missoula, they started with 10,000 square feet which eventually became 30,000 square feet, including a visitor's center. Some 80,000 visitors a year come through the visitor's center.

He explained that the Foundation currently has the financial stability with equity in excess of $5 million and an organization that is continuing to grow rapidly. Two years ago, they arranged the option to purchase the building; they purchased the building on contract last Friday, October 15, 1993. He said due to the fact that the Foundation would like to secure more favorable interest rates and deal with tax exempt bonds, they proposed a bond issue. The bond issue would be approximately $3.2 million. $1.8 million would be used for the purchase of the headquarters property; $400,000 would be used for the purchase of an adjacent tract; remodeling and landscaping

would use $535,000 of this money; $120,000 for equipment; and a debt service reserve fund of $275,000. The underwriters advised them that the debt service reserve fund is required in order to make the bonds marketable and the Foundation will pay any costs of issuance, including bond counsels and attorneys fees and the costs to buy another building in the same area.

He stated that the visitor's center will continue to grow because the international headquarters of the Elk Foundation is located here; visitation should exceed 100,000 next year. Active membership should exceed 100,000 next year. They would also like to make the property and facility a showcase for the community. The future proposals and plans for the building are under review with Peredine, the architectural and planning firm. Several different avenues they want to proceed with include wildlife conservation; habitat enhancement; and the dollars as a non-profit need to be spent on the ground for the benefit of the wildlife resource. Secondly, they want to have a home the Missoula community can be proud of. They do not charge admission and would like the community to use the facilities at-will.

He explained that the bonds will be repaid solely by the Foundation and will not be the obligation of the County; tax dollars will not be used to pay off any part of the bonds. He thanked the Commissioners for permitting the Rocky Mountain Elk Foundation to finance the acquisition, remodeling and landscaping of the property.

Cynthia Bryan, Gillespie Realty, MAEDC Vice Chair, gave the Missoula Area Economic Development Corporation's support and endorsement of the use of IDR bonds by the Rocky Mountain Elk Foundation. MAEDC was instrumental in recruiting and relocating the Rocky Mountain Elk Foundation in 1987. She commented how happy MAEDC is that the Foundation is reaffirming its commitment to Missoula by purchasing the buildings and the land on West Broadway. The Elk Foundation is a basic industry and imports membership funds to Missoula to provide quality jobs and is a significant tourism draw to the Missoula area.

Bob Ream, Interim Dean of the School of Forestry at the University of Montana, explained that the University participated very strongly in the recruitment and relocation of the Rocky Mountain Elk Foundation to Missoula. The University has had a very strong tie with the Foundation ever since that has benefitted students and faculty. The University has received direct benefit in the form of some research support for graduate students. They have also worked together on some projects involving habitat acquisition and management. Staff from the Foundation has helped in seminars and educational efforts. The professional association has benefitted everyone. Attracting the Rocky Mountain Elk Foundation is just the beginning of other organizations like this coming to Montana. The presence of the Boone & Crocket Foundation National Headquarters in Missoula is in part, a reflection of this.

John Langstaff, a resident of Missoula, supported the Foundation's decision to locate on West Broadway rather than in the Gleneagle subdivision which they did out of respect for the elk winter range. He commended their decision to locate where it is less critical to the wildlife in the Gleneagle area.

There being no further comment, the hearing was closed to public comment.

Fern Hart asked how many were currently employed and the number of employees they anticipated due to their expansion?

Bob Ream explained that the Rocky Mountain Elk Foundation's mission is not to create employment, but to put dollars on the ground for the resource. However, the Rocky Mountain Elk Foundation, in less than 10 years, has displayed the fact that member volunteers can really make a difference. Their growth has just started. He referred to Ducks Unlimited which has been around for 55 years, has roughly 350-400 employees and a membership of a half million people. With the elk hunters and conservationists involved and dealing with habitat as their focus, they have at least this much potential. If they continue to grow, they are accomplishing their mission. They started with 12 employees and currently have 80 employees in Missoula along with a great many volunteers and work study people from the University. There is another 20 or more branch offices throughout the country.

Fern Hart asked about gender equity; what kind of opportunities are available to females to advance into management positions?

Bob Ream said approximately 60-65% of the work force is female. He said they are quite comfortable with their gender equity as an employer in Missoula. There are a lot of talented people in the Foundation regardless of sex.

Barbara Evans commented that the Commissioners are very pleased that the Foundation chose to come to Missoula and commended the remodeling and landscaping plan which shows concern for appearance of their business. The landscaping plans help to set a standard along the highway. She commended them because their emphasis was on protecting the animals as well as hunting.

Fern Hart moved and Barbara Evans seconded the motion to approve the issuance of the Industrial Revenue Bonds for the Rocky Mountain Elk Foundation because it meets the policy adopted by the Board of County

Commissioners, the statutory requirements, and because they are very good citizens. The motion carried on a vote of 2-0.

Michael Sehestedt, Deputy County Attorney, suggested that a motion be made to authorize the Chair to execute such documents as are necessary to carry and effect the issuance of the bonds.

Fern Hart moved and Barbara Evans seconded the motion to authorize the Chair of the Board of County Commissioners to sign such documents as may be necessary for the issuance of the IDR Bonds. The motion carried on a vote of 2-0.

HEARING: PETITION TO ANNEX TWO TRACTS OF PROPERTY INTO FLORENCE RURAL FIRE DISTRICT (MICHAEL OLDS)

Barbara Evans explained from information received from Phyllis E. Browder, Recording Supervisor in the Clerk & Recorder's Office, that a petition was received by the Clerk & Recorder's Office to annex a parcel of land located in Missoula County to the Florence Rural Fire District.

The petition for annexation has been checked and verified. The petition contained signatures of more than 50% of owners of the privately owned land in the area to be annexed and a majority of the tax-paying freeholders within the area described, so they meet the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The area to be annexed is described as follows: TRACTS L & M OF COS #4143, BOTH TRACTS OF WHICH ARE LOCATED IN THE SOUTH HALF OF SECTION 31 OF T11N, R19W, PRINCIPAL MERIDIAN, IN MISSOULA COUNTY, MONTANA.

The hearing was opened to public comment.

Gordon Gieser, board member of the Florence Fire District, commented on the board's willingness to accept the property into the Florence Rural Fire District. The only access to this property is through Ravalli County across the Eastside Highway.

There being no further comment, the hearing was closed to public comment.

Fern Hart moved and Barbara Evans seconded the motion to accept the petition to annex a parcel of land located in Missoula County to the Florence Rural Fire District described as follows: TRACTS L & M OF COS #4143, BOTH TRACTS OF WHICH ARE LOCATED IN THE SOUTH HALF OF SECTION 31 OF T11N, R19W, PRINCIPAL MERIDIAN, IN MISSOULA COUNTY, MONTANA. The motion carried on a vote of 2-0.

HEARING: INTENT TO CREATE RSID NO. 8456 (CONSTRUCTION OF SEWER MAIN EXTENSION ALONG HENDRICKSEN DRIVE)

Barbara Evans explained from information received from Jesse Sattley, RSID Coordinator, that a petition was received with 63% approving signatures for the creation of RSID #8456 for the purpose of constructing a sewer main extension along Hendricksen Drive. The total estimated RSID cost including County fees is $75,000.00.

The staff recommended that RSID #8456 for the Hendricksen Drive sewer be created.

The hearing was opened to public comment; there being none, the hearing was closed to public testimony.

Fern Hart moved and Barbara Evans seconded the motion to create RSID #8456 for the purpose of constructing a sewer main extension along Hendricksen Drive, based on the fact that no protest letters were received. The motion carried on a vote of 2-0.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER (STACK) Tract 6A of COS 2185

Kathy Smith, Paralegal for the County Attorney's Office, explained that Bill Stack submitted a request for a family transfer exemption for Tract 6A of COS 2185. Tract 6A is a 20.05 acre parcel and Mr. Stack proposed to transfer approximately 10 acres of the parcel to his mother, Myrtle M. Stack.

The history of the parcel is as follows: COS 1806 was filed in February, 1979 creating eight parcels over 20 acres in size. COS 2185 was filed in November, 1979 which severed the lower part of parcels 6 through 10 creating five 20.05 acre parcels.

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

The hearing was opened to public comment.

Bill Stack explained that he has lived on the property in question for a year and a half. He said his mother has helped him in the past and he wanted to help his mother by dividing the property and giving her the upper portion of the property for a house. The acreage is long and there are few areas where permits can be obtained and that have a nice view. Her home would be over 500 yards away. The access to the upper portion has been obtained from a neighbor through a verbal commitment for an easement. His mother will use part of the road.

Fern Hart said the private road will be maintained by the property owners.

Horace Brown, County Surveyor, said this is a private road which is not maintained by the County.

There being no further testimony, the hearing was closed to public comment.

Fern Hart moved and Barbara Evans seconded the motion to approve the family transfer exemption for Tract 6A of COS 2185 for Bill Stack, based on the finding that the request does not attempt to evade the Subdivision and Platting Act. The motion carried on a vote of 2-0.

Fern Hart explained that Mr. Stack would receive a letter from the Board of County Commissioners indicating approval. The land would be surveyed, then the deeds transferred to his mother and filed with the Clerk and Recorder's Office.

CONSIDERATION OF: RED HAWK ACRES (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, said Red Hawk Acres is a proposed 5-lot subdivision of 5.0 acres per lot, with a 50.7 acre remainder parcel. The entire subject parcel covers 75.7 acres total. It is located in Section 10, Township 14 North, Range 20 West, and is currently recorded as C.O.S. 2039. The property lies on the east side of Highway 93 approximately 3 miles north of the Wye junction, just before entering Evaro Canyon. The 5 lots front on to Highway 93, where the land is fairly level (approximately 2% slope) up to the footslope to the east which begins at about the 3,310-foot contour. The developer has obtained permission from the State Department of Transportation for two shared accesses. Lot 1 has an existing house, two garages, drive, well, and septic. The 50.7-acre remainder lies to the east within a hilly area that is bisected by a large ravine. The planning and design of this subdivision should consider the 5 lots and the remainder together as integral components of the entire 75.7-acre parent parcel.

This is an area of important natural and agricultural resources. The land is unzoned. The Missoula County Comprehensive Plan, 1990 update, identifies this area as open and resource land where residential development of no more than one dwelling per 40 acres would be in keeping with the intent of that classification. The development pattern is such that many residences and land divisions exist in the area (mainly through exemptions to the County subdivision review process), and it is now an area in transition where residential use is becoming prevalent over time. Red Hawk acres is distanced from schools, service and employment centers, sewer and water distribution lines, and protection services.

If any residential development is to occur in this area it should be done carefully with as little impact as possible, involving 1) low intensive residential and no commercial or industrial uses, 2) a small number of new homes relative to the total size of the property that incorporates a degree of the clustering concept, 3) the guarantee of considerable open space in order to help preserve the present quality of the natural environment and 4) consideration of the remainder parcel with the rest of the subdivision. By involving these concepts in the planning of this development, it can be shown that it is in substantial compliance with the Comprehensive Plan.

The Community Development staff recommended that the Summary Plat of Red Hawk Acres be approved, subject to compliance with the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. The area of land shown on the plat above 3310 feet in elevation shall be declared a no-build/no excavation zone and shall be indicated on the plat as such. Prohibited from construction shall be any structures or roads. This condition applies to the 5 lots fronting Highway 93 but does not apply to the driveway or the home on the remainder parcel.

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4. The developer shall enter into a covenant with the governing body that there shall be no further subdivisions of these properties; the 5 lots fronting Highway 93 shall remain 5.0 acres in size and the remainder parcel shall remain 50.7 acres in size. Under this circumstance, the subdivision qualifies for a waiver of parkland dedication. In addition, no more than one single family residential structure and one accessory structure shall be constructed on either lot or on the remainder parcel. This condition is revocable only by mutual consent of the landowner and the governing body, and if the future subdivision can be found in substantial compliance with the Comprehensive Plan. Any further subdivisions would necessitate the formal subdivision review process. This condition shall be stated in the deed restrictions and it shall appear on the face of the final plat and each instrument of conveyance.

5. A 1-foot no-access strip shall parallel the west property lines of the 5 lots fronting Highway 93 except for the two access points that are shown on the submitted plat.

6. Grading, drainage, erosion control, sewer, water, street, and driveway plans shall be subject to approval of the County Surveyor.

7. The 54-foot private access and public utility easement shown on the submitted plat shall be labeled "54-foot public access and public utility easement". The street shall remain a private street until such time that the County Surveyor deems that the County shall take over maintenance of the street.

8. The internal street which connects the driveways of the 5 lots along Highway 93 shall connect with both access points that are shown on the proposed plat; the internal street shall be paved to a 20-foot width, the location of the street shall be shown on the face of the final plat, and the street shall be approved by the County Surveyor and the Missoula Rural Fire Department.

9. The driveways shall have at least a 20-foot paved apron for a distance of at least 20 feet from the edge of the internal street. The unpaved portion of the driveway shall consist of a gravel surface which is well drained.

10. The driveway that serves the remainder parcel shall meet County driveway standards to provide for physical, although private, access. The width of the driveway shall be at least 20 feet, the grade shall not exceed 12%, the first 20 feet shall be paved from the internal street, and it shall be approved by the Missoula County Rural Fire Department.

11. The face of the plat and each instrument of conveyance shall state the following: "The purchaser and/or owner of the lot or parcel understands and agrees that private road maintenance and snow removal shall be the obligation of the owner or property-owner's association and that the County of Missoula is in no way obligated until the roads are brought up to standards and accepted by the County of Missoula."

12. Approach permits for the two access points shall granted from the State Department of Transportation.

13. The following shall appear on the face of the plat and in each instrument of conveyance, and shall run with the land: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owner to waive the right to protest a future RSID for the improvement of the internal street which accesses Highway 93 and serves the properties of Red Hawk Acres."

14. The covenants shall recommend that homeowners obtain a copy of "Living With Wildlife". This brochure is designed to develop a more peaceful coexistence between humans and wildlife. A copy may be obtained from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, or Rural Planning, 200 West Broadway, Missoula, MT 59802.

15. The covenants, by-laws, and declarations shall bear the certification of the attorney who prepared or reviewed them, that such attorney is licensed to practice law in the State of Montana, and that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

16. The developer shall file Property-owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State prior to filing of the final plat.

He explained that the developer is asking for a variance to Section 3-2 (7) (C) of the Missoula County Subdivision Regulations which state that local, rural streets must be paved to 24 feet. The developer is asking to pave to a 20 foot width. Staff recommended approval of the variance requests for the following reasons:

1) The internal street will serve the 5 lots and remainder parcel only.
2) The street parallels Highway 93 and the amount of paved surface should be kept low if possible.

3) Condition #8 states that the street must be approved by the Missoula Rural Fire Department and the County Surveyor who may require the street be paved to 24 feet, in which case this variance request would be denied.
4) Condition #13 states that all owners of the lots or remainder shall waive the right to protest a future RSID for the improvement, or widening, of the street.
5) It is preferred that access be limited to only two points rather than having each lot request access onto Highway 93.

Nick Kaufman, WGM Group, displayed a map of the land divisions in the vicinity of the Wye/O'Keife area. The property in question was originally part of 160 acres homesteaded by the Johnson family. Most of the surrounding divisions were done outside of subdivision review with a density of around one dwelling unit per four acres. He gave a brief overview of the uses of the surrounding area. The property is currently unzoned and is adjacent to property that is greater than one unit per four acres with a highway and railroad close by. The property is outside the building permit area. There is no review except for a drainfield and well. Many things could happen to the property such as being used as a commercial lot because it is unzoned.

Barbara Evans asked if there could be commercial or industrial uses on this property?

Ron Ewart said in order to keep the impact as low as possible, the staff recommended that efforts to do this would include low-intensive residential.

Nick Kaufman said it was important to note that this is a subdivision review process, not a zoning process. They have tried to incorporate design into the process by clustering lots closer to the highway, leaving the hillside open. This preserves the hillside as a 50 acre single parcel remainder. The five 5 acre tracts have a 75 foot setback from the highway; joint access points with access approved with a common driveway; and restriction of future divisions within the covenants as well as a condition of approval. The overall density of the subdivision is one unit per 12 acres, one unit per 50 acres on the hill, which is less dense than the surrounding area.

He said the OCD staff is proposing to allow no building past the contour line of 3,310 feet. He said based on subdivision regulations which discourage development on slopes of 25% or greater, he proposed the adoption of a condition which stated, that slopes 25% or greater shall be declared a no build/no excavation zone. This would pull the homes away from noise of the highway and increase the views without building on the hillsides.

He proposed an amended staff report which would address the staff's intention and the design criteria. He proposed to amend Condition #3 to state, "Areas with a slope of 25% or greater", which would replace "The area of land shown on the plat above 3,310 feet in elevation...". Areas with a slope of 25% or greater shall be declared as a no-build, no excavation zone. This will keep the homes and the roads off the steeper slopes. This allows the property owners to move a home into areas which are part of the lower slopes, but before it begins to get steep. Regarding Condition #4, he said if a person buys a five acre tract, they are entitled to a garage, a barn, etc. As it reads now, this condition can't be enforced and is not a condition which should be included in the subdivision review process, but as part of a zoning ordinance. He asked that the sentence, "In addition, no more than one single family residential structure and one accessory structure shall be constructed on either lot or on the remainder parcel." He recommended that the language in Condition #4 be changed further, "This covenant is revocable only by mutual consent of the landowner and the governing body, ~~and~~ or if the future subdivision can be found in substantial compliance with the Comprehensive Plan." If the Commissioners find in the future that the lots can be split, as the condition reads, they would have to wait until the Comp Plan is amended. Regarding Condition #8 and #10, he said the property is within the Frenchtown Rural Fire District. He said the covenants currently prevent more than one dwelling unit per lot. He said Condition #4 belonged in either the covenants or the zoning. He recommended that a condition (#17) be added as follows: "The developer shall install a 1,500 gallon cistern for use by the Frenchtown Rural Fire District. The location shall be approved by the Frenchtown Fire Chief." He said he met with Scott Waldron and worked out this condition.

Barbara Evans asked if a homeowners association is required to be formed?

Nick Kaufman explained they designed the subdivision to have a common driveway across the front of the lots which would connect with the two approaches. The OCD staff interpreted this driveway as a road. A driveway would require a maintenance agreement. If it is called a street, the subdivision regulations require that the homeowners association be incorporated and there be an ability mechanism for dues, maintenance, etc. The staff, however, regards this as a street and would grant the variance to the width.

Fern Hart asked about the building setbacks and which lots would be affected?

Nick Kaufman explained that a lot buyer should be able to build back from the highway to decrease highway noise; however, they shouldn't be allowed to build into the slopes and scar the hillside. The slope he was referring to was beyond 3,310 feet in elevation, but was only about a slope of 4%. This would keep the homes off the hillside to preserve the horizon line.

Barbara Evans asked about the private road versus the street. She wanted to know who would maintain the street? As a private driveway, the maintenance would be the responsibility of the five homes and as such a homeowners association is needed.

Nick Kaufman explained that the requirement for a homeowner's association will be placed in the new article of covenants. If the roadway is a private driveway, nothing needs to be in the covenants. When it becomes a street, the homeowner's association must be responsible for its maintenance and the association must be incorporated. The roadway will be paved within the next 2 years. The SID is only there at the request of the OCD staff in case in the future the lots are redivided, these lots have waived their rite to protest the paving. However, the only way to redivide these lots is to come before the Commissioners with a condition to pave the streets.

Barbara Evans asked about Condition #8 which required that the street be approved by Surveyor's Office and the Rural Fire Department.

Horace Brown, County Surveyor, explained that this is required now and then. He commented on Condition #10 concerning the approval for the driveway by the Rural Fire District; the County Surveyor needs to approve it also. When the Surveyor's Office looks at a road, they look at it for everyday use by homeowners, whether it meets County standards and whether it meets the requirements of the Fire Department.

Nick Kaufman said there are multiple jurisdictional issues involved: the Health Department, Fire Department, Surveyor's Office, and County Commissioner approval. The fire codes require a 20 foot wide all-weather surface.

Barbara Evans said if the Surveyor's Department looks at this, then additional approval shouldn't be required for the Fire Department as long as their concerns are being addressed.

Horace Brown said this will be addressed in the Phase II of subdivision requirements which are being worked on now. The requirements for the Surveyor's Office will be the same as by the Fire Department.

Ron Ewart said OCD felt comfortable taking out the Fire Department and explained the reasons this was included. The roadway is a long drive--Rural Fire may have wanted a turn-a-round.

A discussion ensued relative to Condition #8 and #10. It was concluded that the words, "and the Missoula Rural Fire Department" be deleted and "County Surveyor" be inserted. Condition #12 should be amended to read, "Approach permits for the two access point to Highway 93 shall be granted from the State Department of Transportation."

Fern Hart asked about the homeowner's association and where it could be inserted into the language.

Nick Kaufman explained that Condition #16 requires articles of incorporation must be filed and Condition #15 addresses a homeowner's association. The subdivision regulations require when a private road is built, a homeowner's association be created.

John Langstaff, resident of the Grant Creek area, commended the developers for clustering the homes to protect the viewshed of the canyon. A 1500 gallon cistern should be the minimum requirement.

Ron Ewart commented on Conditions #3 and 4. Condition #3 could be worded better to keep development off the hillsides. 3,310 feet was chosen because there would be no gray area. The Office of Community Development staff wanted a definite line where there would be no construction. The words, "25% slope or greater" is not definite enough; it is best to be more definite by showing a definite line on the plat.

Nick Kaufman explained that the areas with a slope of 25% or greater shall be declared a no build/no excavation zone and shall be indicated on the plat as such. Prohibited from construction shall be any structures or roads.

Ron Ewart agreed with this change as long as it was indicated on the plat. He commented on Condition #4, and said the OCD staff had changed the Condition to read: "This covenant is revocable only by mutual consent of the landowner and the governing body, and if the future subdivision can be found in substantial compliance with the Comprehensive Plan." Regarding the first portion of Condition #4 relative to the number of structures, he said this is sort of a zoning issue. He said the OCD's job is tricky because they always try to follow the Comp Plan. In this case, they tried to bring the property into substantial compliance with the Comp Plan. One of the ways to do this is to limit the number of buildings that could be put on the lots. By limiting the numbers to one accessory and one residential structure, this is one method of making the lots comply substantially with the Comp Plan. He said it is very important to have this in the staff report; if it is in the covenants, it shouldn't be a problem.

Fern Hart wondered if this issue could be satisfied with the following: "one residential unit per lot."

Nick Kaufman reviewed the covenants with the Board regarding the number of dwelling units allowed on the lots which was no more than one dwelling house per lot. He said the C-A1 zone is the zone which could be applied to the open and resource lands which is one dwelling unit per 40 acres. Under a PUD, this allows one dwelling unit per 10 acres, and seven units on this property. Five units are proposed on this site. The subdivision is much less dense than what is allowed in the C-A1 zone. He said the setback requirements in this zone are 50 feet; they have setbacks of 75 feet. The accessory buildings and uses for those normally incidental to a single family home plus the raising of livestock with no limitation on the number of accessory buildings. Permitted uses are agricultural, including all and any structures needed to pursue such activity: single family dwellings, mobile homes, home occupation, guest ranch, intensive agricultural operation including commercial feed lots and poultry farms, accessory buildings and uses, public and private utility and communication operations. By special exception, the C-A1 zone also allows facilities for the process and storage of agricultural products, etc. He wondered why, in this subdivision which is a straight forward five lot subdivision, should be more restrictive than the zoning which can be applied to the property? There are 19 existing residences which did not go through subdivision review. He requested approval of the changes and amendments to Condition #4.

Barbara Evans asked Nick Kaufman to clarify Condition #4.

Nick Kaufman explained that he is requesting the Board take out the zoning section of Condition #4 because 1) it can't be enforced and 2) it is significantly and substantially more restrictive than if the property was zoned. He suggested that the word "condition" be replaced by "covenant".

Fern Hart asked if Condition #4 would keep one residential unit for each of the five acre parcels by using the word covenant and by deleting the requirement for the number of structures?

Colleen Dowdall, Deputy County Attorney, explained that it maintains the density at one residential unit. If another unit was built on the property, the property would have to divided. The language suggested by Nick Kaufman does not keep the requirement the OCD staff requested to having one home and one accessory structure.

Fern Hart said she did not have a problem with an accessory structure unless it was a machine shop.

Ron Ewart said it was necessary to make sure that it is single family residential use only as this is required to qualify for parkland dedication waiver. It is also one step to keeping the land in its natural or present agricultural state.

Fern Hart said the Board has respect for the Comp Plan. It is a plan that exists whether it reflects the area. The Board must not become vulnerable to having allowed a subdivision even if a subdivision fits the existing development, but contradicts the Comp Plan.

Nick Kaufman said the zone as well as the Comp Plan are agricultural. He spoke about the number of outbuildings on a five acre parcel and what is typical for a rural five acre lot. It is not the number of outbuildings that makes it obtrusive; it is where the buildings are located. The subdivision will have setbacks of 75 feet. He said the OCD staff continually in this staff report has tried to accomplish something by a particular condition, but doesn't address what they are trying to do.

Barbara Evans said the covenants clearly call for one dwelling unit per five acre lot.

Fern Hart said covenants can be changed by the association.

Nick Kaufman indicated that this wouldn't happen in this rural setting.

Fern Hart said she wanted to make sure that the lots will end up with one dwelling unit per five acre parcel.

A discussion ensued relative to the issue of accessory structures.

Nick Kaufman said Mr. Johnson's land has remained an 80 acre parcel when everything around him was divided and developed without going through subdivision review. Everything they have proposed for this subdivision exceeds, conforms or is more restrictive than the C-A1 zone. In an agricultural setting, there are more than one accessory buildings. Condition #4 prevents a guest house or more than one accessory building. The covenants cover the restriction of more than one residential unit per lot.

Fern Hart said it may be covered, but she wondered about the legality with respect to a challenge on compliance with the Comp Plan.

Colleen Dowdall said the OCD staff is attempting to make the subdivision comply with Comp Plan. The reason for limiting the structures is to limit the effect upon the property. Enforcing the Comp Plan in terms of density is a difficult thing to do.

Barbara Evans asked if "one accessory structure" in Condition #4 was deleted, would that take care of everyone's concerns?

Colleen Dowdall said this could be construed to limiting the property to no accessory structures. She suggested language, "...in addition, no more than one residential structure and structures accessory to residential use or to the residential structure." By doing this, there may be more than one accessory structure, but no machine shops.

Nick Kaufman argued that the open and resource land designation is not a residential designation. The density issue has been addressed. He read the Open and Resource category from the C-A1 zone which indicated that the classification permitted uses which are agricultural including the facilities for processing and storage of agricultural products. He wondered why it was thought that the open and resource zone was a residential zone?

The density issue is one dwelling unit per 40 acres. This subdivision was created to have five cluster parcels and a large 50 acre parcel to address the resource issue. This is not a residential zone.

Colleen Dowdall said this is the problem; the property is not zoned. The property hasn't been zoned open and resource lands.

Nick Kaufman said the Comp Plan's designation for open and resource is not a residential designation.

Colleen Dowdall said it does allow residential use with a recommendation of one unit per 40 acres.

Nick Kaufman said the uses allowed go beyond residential. If a person has an agricultural use, they will have a machine shop which is perfectly appropriate in the open and resource zone.

Colleen Dowdall asked why Mr. Kaufman he didn't want to restrict commercial uses on the property?

Nick Kaufman said he doesn't want to restrict a machine shop associated with agricultural uses. This is part of the open and resource designation and part of agriculture. He said they are trying to make this look like a suburban subdivision.

Colleen Dowdall repeated her suggested language for Condition #4. The language is different than what Mr. Kaufman wanted, but it defines what is residential and what would support a residential use. "One residential structure and structures accessory to residential use." This will probably allow a barn, a playhouse and other uses. However, it would not allow a machine shop.

Nick Kaufman said the open and resource category and the C-A1 zone is defined as open and resource.

Colleen Dowdall asked if Mr. Johnson was going to retain his one acre and machine shop?

Nick Kaufman said Mr. Johnson's house and shop sits on the southerly five acre tract which he will sell. The other lots will be sold in conformance with the covenants. The whole property, including the 50 acres, will be sold to the developer, Mr. Hobbs. He said the open and resource designation in the Comp Plan is an agricultural open and resource; it is not primarily residential. He said the five acre lots will be sold to people who may want to graze a portion of the property, who may want to have the appropriate outbuildings necessary to raise animals, and the opportunity to have a guest house. He wondered if the language was changed, what is lost by the staff?

Gene Johnson, owner of the property, said this is not a residential area. A neighbor from the surrounding area just built a 40 x 60 garage for his logging trucks. However, this is not good farm country either. The only reason the Johnson property will be divided and developed is because he and his wife are unable to care for the acreage. This property was homesteaded by his grandfather; his brother's property is adjacent to the parcel. His brother is in better health and is able to care for his land. They will buy the one acre parcel. They had someone farm the land to keep the knapweed out.

Nick Kaufman commented on the statement made by the OCD staff who indicated that in order to waive the parkland requirement, the use of the property must be primarily residential. However, if it goes industrial/commercial there is no parkland requirement. The staff is trying to put a condition on something they perceive will happen, but in reality won't happen.

Fern Hart said she truly respects the work Mr. Johnson and Nick Kaufman have done on this project, and is not questioning their integrity or their intentions. She stated she did not have any intention of pushing them into a

corner. This corridor is ugly in so many places, but the developers have promised to make it beautiful. However, she expressed concern that they not be vulnerable in the Comp Plan.

Gene Johnson spoke in favor of Nick Kaufman who has proposed this subdivision which will, in the end, protect the property.

Barbara Evans said the County is resistant to being party to covenants. The covenants allow one dwelling unit per lot and leaves the question of the outbuildings to the covenants and is revokable only after Comp Plan update has been approved or by mutual consent of the landowner and the governing body. To the rest of the covenants, the County is not a party. But the covenant regarding the specific issue of the number of residential dwellings on a lot cannot be changed unless the Comp Plan changes or unless the Commissioners agree to that change.

Colleen Dowdall said the County is not party to the covenants. It does say that unless the Comp Plan changes or the Commissioners have agreed, this property cannot be split any further. The covenants do have the restriction of one structure and that the property won't be divided. They also have a means to set up a board which can be waived if it is in the best interests of the property owners. The developer has the ability to amend the covenants on his own as long he is a member and owns any property within the subdivision. The covenants set up an architectural control committee which will approve exceptions to the section regarding the number of dwelling houses and whether the lots can be subdivided. This committee is authorized to approve exceptions to permit a lot to be divided or a structure to be built on portions of two or more lots in its discretion. In order to subdivide further, a request still must come through subdivision review.

A discussion ensued relative to the wording in Condition #4. The allowable uses are residential along with agricultural.

Nick Kaufman stated that in 16 years, he has never seen the Commissioners put a use covenant on a subdivision. He wondered if this will set a precedent? This is different than what the Commissioners have ever done previously. The Comprehensive Plan deals with density. The Comp Plan in this case defines this property as open and resource lands and does not restrict agricultural uses. In this covenant, the Commissioners will 1) determine use and 2) determines the number and type of structures which are typically determined in zoning or covenants. He wondered how a person could get more than one house, other than a guest house onto the tract without going through subdivision review?

Fern Hart said the Board must adopt conditions which are legally defensible.

Barbara Evans said she felt that they are adding conditions not presently in the subdivision regulations. She stated she was not willing to change without legitimate reason. She said since the land is presently designated in the Comp Plan as public and resource land with agriculture clearly one of its allowances, she was willing to accept Mr. Kaufman's amendments to Condition #4 based on the fact that the Board would not be instituting new regulations.

Fern Hart said she wouldn't restrict accessory uses, but would restrict the number of dwellings to one residential unit per lot.

Colleen Dowdall said this would still restrict the agricultural uses. She offered the following language as a compromise: "...accessory structures which are agricultural and residential."

Fern Hart moved and Barbara Evans seconded the motion to approve the Summary Plat of Red Hawk Acres based on the findings of fact in the staff report and subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. Areas with a slope of 25% or greater shall be declared a no-build/no excavation zone and shall be indicated on the plat as such. Prohibited from construction shall be any structures or roads. This condition applies to the 5 lots fronting Highway 93 but does not apply to the driveway or the home on the remainder parcel.

4. The developer shall enter into an agreement with the governing body that there shall be no further subdivisions of these properties; the 5 lots fronting Highway 93 shall remain 5.0 acres in size and the remainder parcel shall remain 50.7 acres in size. Under this circumstance, the subdivision qualifies for a waiver of parkland dedication. In addition, no more than one single family residential structure and accessory residential and agricultural structures shall be constructed on either lot or on the remainder parcel. This condition is revocable only by mutual consent of the landowner and the governing body, and if the future subdivision can be found in substantial compliance with the Comprehensive Plan. Any further subdivisions would necessitate the formal subdivision

review process. This condition shall be stated in the deed restrictions and it shall appear on the face of the final plat and each instrument of conveyance.

5. A 1-foot no-access strip shall parallel the west property lines of the 5 lots fronting Highway 93 except for the two access points that are shown on the submitted plat.

6. Grading, drainage, erosion control, sewer, water, street, and driveway plans shall be subject to approval of the County Surveyor.

7. The 54-foot private access and public utility easement shown on the submitted plat shall be labeled "54-foot public access and public utility easement". The street shall remain a private street until such time that the County Surveyor deems that the County shall take over maintenance of the street.

8. The internal street which connects the driveways of the 5 lots along Highway 93 shall connect with both access points that are shown on the proposed plat; the internal street shall be paved to a 20-foot width, the location of the street shall be shown on the face of the final plat, and the street shall be approved by the County Surveyor.

9. The driveways shall have at least a 20-foot paved apron for a distance of at least 20 feet from the edge of the internal street. The unpaved portion of the driveway shall consist of a gravel surface which is well drained.

10. The driveway that serves the remainder parcel shall meet County driveway standards to provide for physical, although private, access. The width of the driveway shall be at least 20 feet, the grade shall not exceed 12%, the first 20 feet shall be paved from the internal street, and it shall be approved by the County Surveyor.

11. The face of the plat and each instrument of conveyance shall state the following: "The purchaser and/or owner of the lot or parcel understands and agrees that private road maintenance and snow removal shall be the obligation of the owner or property-owner's association and that the County of Missoula is in no way obligated until the roads are brought up to standards and accepted by the County of Missoula."

12. Approach permits for the two access points to Highway 93 shall granted from the State Department of Transportation.

13. The following shall appear on the face of the plat and in each instrument of conveyance, and shall run with the land: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owner to waive the right to protest a future RSID for the improvement of the internal street which accesses Highway 93 and serves the properties of Red Hawk Acres."

14. The covenants shall recommend that homeowners obtain a copy of "Living With Wildlife". This brochure is designed to develop a more peaceful coexistence between humans and wildlife. A copy may be obtained from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, or Rural Planning, 200 West Broadway, Missoula, MT 59802.

15. The covenants, by-laws, and declarations shall bear the certification of the attorney who prepared or reviewed them, that such attorney is licensed to practice law in the State of Montana, and that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

16. The developer shall file Property-owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State prior to filing of the final plat.

17. The developer shall install a 1500 gallon cistern for use by the Frenchtown Rural Fire District. The location shall be approved by the Frenchtown Fire Chief.

The motion carried on a vote of 2-0.

Fern Hart moved and Barbara Evans seconded the motion to grant the variance to Section 3-2 (7) (C) of the Missoula County Subdivision Regulations which state that local, rural streets must be paved to 24 feet, to pave to a 20 foot width, based on the following:

1) The internal street will serve the 5 lots and remainder parcel only.

2) The street parallels Highway 93 and the amount of paved surface should be kept low if possible.

3) Condition #8 states that the street must be approved by the Frenchtown Rural Fire District and the County Surveyor who may require the street be paved to 24 feet, in which case this variance request would be denied.

4) Condition #13 states that all owners of the lots or remainder shall waive the right to protest a future RSID for the improvement, or widening, of the street.

The motion carried on a vote of 2-0.

CONSIDERATION OF: ANDERSON-BUCKLEW ADDITION (SUMMARY PLAT)

Ron Ewart explained that the staff at the Office of Community Developed wanted to do more investigation into the access onto Grant Creek Road. Many unanswered questions remain; it is best to get a clear answer. He recommended that the consideration of Anderson-Bucklew Addition be postponed until next week.

Barbara Evans stated the Summary Plat for Anderson-Bucklew Addition be postponed until the Public Meeting on October 27, 1993.

CONSIDERATION OF: DINSMORE'S ORCHARD HOMES ADDITION #4 TRACT 13 (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that this proposal is to create 2 lots from an existing 2.16 acre tract which is located in Section 19, T13N, R19W. The property lies on the north side of South 3rd Street West between Hiberta and Stone Street; Hawthorne School is located one quarter mile to the east. The parent parcel, known as Tract 13, has an existing house, garage, barn, paved driveway, well, and septic on the western half. Proposed Lot A will contain these improvements and will be 1.16 acres in size. Proposed Lot B is currently vacant and will be 1.0 acres in size. A Wisconsin Mound will be constructed to handle the septic on Lot B. The approximate northern half of the subject parcel is located within the 500-year floodplain. The property is located within Zoning District No. 13, which allows residential use at the proposed density.

The Community Development staff recommended that the Summary Plat of Dinsmore's Orchard Homes Addition No. 4 Tract 13, amended be approved, subject to compliance with the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. Lot B shall consolidate its approach with Lot A for one approach for both lots. The approach shall be approved by the County Surveyor.

4. A minimum 20-foot private access easement shall be granted on that portion of Lot A upon which the drive for Lot B will cross.

5. The driveway approach for Lot B shall be paved at least 20 feet back from the existing paved driveway of Lot A at the time Lot A is built on. The unpaved portion of the driveway shall consist of a gravel surface which is well drained. This area shall be sufficient for two off-street parking spaces located outside of the right-of-way. The grade of the driveway shall not exceed 12%.

6. A fee of $50 per lot shall be paid to the Missoula Rural Fire District for the purchase of a large diameter hose.

7. The following shall appear on the face of the plat and in each instrument of conveyance shall appear: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owners to waive the right to protest any future RSID/SID for the installation of sewer or water along 3rd Street, and for any improvements to 3rd Street including widening, sidewalks, curb and gutter and may be used in lieu of their signatures on an RSID/SID petition.

No one was present to speak on behalf of the proposed subdivision.

A discussion ensued relative to the access onto Third Street.

Horace Brown, County Surveyor, explained that the Surveyor's Office didn't care if the subdivision shared a common access with a neighbor to the east or with a neighbor to the west.

Ron Ewart explained that Tim Wolfe, Territorial Engineering & Surveying, informed him that the owners no longer have a problem with the access. He said if the accesses are combined, they will not have to deal with filling in the slope.

Fern Hart moved and Barbara Evans seconded the motion to approve the Summary Plat of Dinsmore's Orchard Homes Tract 13, based on the findings of fact in the staff report and subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. Lot B shall consolidate its approach with Lot A for one approach for both lots. The approach shall be approved by the County Surveyor.

4. A minimum 20-foot private access easement shall be granted on that portion of Lot A upon which the drive for Lot B will cross.

5. The driveway approach for Lot B shall be paved at least 20 feet back from the existing paved driveway of Lot A at the time Lot A is built on. The unpaved portion of the driveway shall consist of a gravel surface which is well drained. This area shall be sufficient for two off-street parking spaces located outside of the right-of-way. The grade of the driveway shall not exceed 12%.

6. A fee of $50 per lot shall be paid to the Missoula Rural Fire District for the purchase of a large diameter hose.

7. The following shall appear on the face of the plat and in each instrument of conveyance shall appear: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owners to waive the right to protest any future RSID/SID for the installation of sewer or water along 3rd Street, and for any improvements to 3rd Street including widening, sidewalks, curb and gutter and may be used in lieu of their signatures on an RSID/SID petition.

The motion carried on a vote of 2-0.

PUBLIC COMMENT

John Langstaff, resident of Grant Creek, spoke as a concerned citizen relative to the Gleneagle Development Plan which is located in a critical elk winter range. The elk rely on this property exclusively for their winter range. In the last two years he has not seen the elk utilize this property as a result of the road which accesses the Gleneagle Subdivision. There are not enough people employed by the County to protect this area. He said the County is saying that by setting aside a little bit of open space the elk will come back. The proposed #3 homesite at the upper end of the subdivision is also the upper limit of the elk winter range habitat. There used to be elk sitings all winter long in this area. He asked if the County has accepted road maintenance for this road?

Horace Brown, County Surveyor, explained that it was accepted, but is closed for the winter with a cable and is not maintained by the County during this time.

John Langstaff commented that it couldn't have been closed all winter because a weekend didn't go by without people using this area for snowmobiling, snowboarding, etc. There has also been increased poaching as a result of the traffic in this area. Ninety housing units are proposed in a central cluster; he stated he couldn't see how any elk would consider this a place to seek refuge. There are no restrictions on public access, dogs, etc. He expressed concerns that once the new subdivision and roads go in the elk will move into the Butler Creek area. He wondered why the Board would give such close scrutiny to the subdivision Red Hawk Acres, but not give any scrutiny to the issue of the elk winter range. He said the Board's attitude is in the right place, but they failed to see what is really best for the elk. He stated because the County chose to develop their tax deed property, no one will see the elk on the winter range.

Barbara Evans explained that discussions concerning Grant Creek have been going on since 1977. Over the years, proposals have changed. During this period of time, nearly all of the land was split by Certificate of Survey into 20 acre parcels which could be built upon. The number of homes that could have been built varied from 600-2,000. The County ended up taking about 150 aces through the tax deed process. The law is very strict concerning taking land away from property owners. Property owners have a right to do what they want on their own property. If the property owners sue the County and wins, this will cost the taxpayers money. Grant Creek is considered by the County to be one of the State's treasures, but homeowners must be willing to cluster and give up property building rights in order to protect habitat. Many were willing and the County was lucky enough to get the land adjoining national lands in order to provide protection for the critical elk range and to provide the 270 acres of protected habitat. The County sought concurrence and input from the Department of Fish, Wildlife & Parks and virtually anyone who dealt with wildlife issues. The County has provided protection forever for all wildlife in this area. This arrangement is not perfect, but it beats the 2,000 homes that could have been built in this area. The arrangement doesn't take away development rights and is a milestone in the protection of the land and wildlife and coming to agreements with the landowners. She said she appreciated Mr. Langstaff's concerns for the wildlife. The Commissioners go to great lengths to protect the wildlife and land as best as they can within the laws under which they operate.

OCTOBER 20, 1993 (CONT.)

Fern Hart said Missoula County was not a major land owner in the area. The County brokered the 94 lots; in the end there won't be 94 lots.

John Langstaff said Bob Henderson of Fish, Wildlife & Parks did not concur with the Gleneagle Development Plan, but indicated it would negatively impact the elk herd. It is better than what was originally proposed, but in the final analysis, protection will not occur.

Barbara Evans said if the elk could be protected 100%, 100% of the elk winter range would have to be protected. However, the County had the power to only protect 75%, and was the best they could do.

Fern Hart said the County did not have the power to protect the elk herd and habitat 100%.

John Langstaff thanked the Commissioners for their time and their interest in the animals. He wondered if the Commissioners could put an ordinance restricting dogs in this area and restrict or limit public access to the open space.

Fern Hart commented that in a pamphlet put out by the County, suggest that fences shouldn't be built and that pet activities should be limited.

The Commissioners thanked Mr. Langstaff for sharing his concerns.

There being no further business to come before the Board, the Commissioners were in recess at 4:00 p.m.

OCTOBER 21, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Evans attended a Museum Board Meeting in the forenoon and Commissioner Hart gave the opening remarks, served on a panel and attended the Leadership Missoula session in the forenoon.

OCTOBER 22, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present in the afternoon. Commissioner Dussault was on vacation through Friday, October 22, 1993.

DAILY ADMINISTRATIVE MEETING

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

Agreement to Sell and Purchase

The Board of County Commissioner signed an Agreement to Sell and Purchase between Missoula County and C. Loren Henry for Lot 6, Block 3, Mountain Shadows #1, for a total purchase price of $22,400.00, subject to the special provisions as set forth in the Agreement. The Agreement was returned to Scott Hollenbeck, Properties 2000, for further handling.

Agreement

The Board of County Commissioners signed an Agreement to Defer Public Auction of Land Taken for Tax Deed between Missoula County and Chester Chamberlin, to defer offering property described as Carline #1, Lots 36 to 40, Block 66, for sale at public auction until after February 28, 1994. The Agreement was forwarded to Vickie Zeier, Clerk & Recorder/Treasurer, for further handling.

Audit List

Commissioner Evans and Commissioner Hart signed the Audit List, dated October 19, 1993, pages 2-32, with a grand total of $151,141.30. The Audit List was returned to the Accounting Department.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

OCTOBER 22, 1993 (CONT.)

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

OCTOBER 25, 1993

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

Indemnity Bond

Chair Ann Mary Dussault examined, approved and ordered filed an Indemnity Bond naming George Ryan as principal for warrant 216410 dated October 1, 1993 issued on the Missoula County Payroll fund in the amount of $336.21, now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Modification of Agreement

Chair Ann Mary Dussault signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences concerning administration of an immunization action plan project (DHES No. 330229), as set forth in the Modification. The document was forwarded to DHES in Helena.

Agreement

The Board of County Commissioners signed an Agreement between the Jamison Law Firm and Missoula County for the purpose of providing services necessary to establish a resort area in the Seeley Lake area of Missoula County, as per the terms set forth, for the period from October 25, 1993 and shall terminate after completion of the scope of services or after the impossibility to proceed is established, with payment not to exceed $18,500.00.

Other items included:

The Commissioners appointed Ann Mary Dussault to serve on the Election Task Force.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

OCTOBER 26, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Contract

The Board of County Commissioners signed a Contract between Missoula County and Green Diamond Contracting, for the purpose of construction, installation and completion of the Curtis Street/Hansen Addition Sewer Extension - RSID #8445, as per the terms set forth, for a total sum of $82,873.59, commencing November 5, 1993, and to be fully completed within a period of sixty (60) days. The Contract was returned to Jesse Sattley, RSID Coordinator, for further handling.

Resolution No. 93-077

The Board of County Commissioners signed Resolution No. 93-077, a resolution creating RSID #8456 for the purpose of constructing a sewer line extension along Hendricksen Drive, Missoula County, as per the terms set forth.

OCTOBER 26, 1993 (CONT.)

Resolution No. 93-078

The Board of County Commissioners signed Resolution No. 93-078, a resolution fixing the form and details of up to $115,000.00 bonds for RSID #8455, sold to R.J. Rangitsch of Missoula, Montana bearing interest at the rate of 6.4%

Resolution No. 93-079

The Board of County Commissioners signed Resolution No. 93-079, a resolution approving the annexation to the Florence Rural Fire District a parcel of land located in Tracts L and M of COS 4143, both tracts of which are located in the south half of Section 31 of T11N, R19W, Principal Meridian, in Missoula County.

Notice of Sale

Chair Ann Mary Dussault signed a Notice of Sale of Rural Special Improvement District Bonds for RSID No. 8456, for the construction of a sewer line extension along Hendricksen Drive, Missoula County, setting the award for November 24, 1993 at 1:30 p.m. in Room 201 of the Courthouse Annex.

Notice Inviting Proposals

Chair Ann Mary Dussault signed a Notice Inviting Proposals for RSID No. 8456, for the construction of a sewer main extension along Hendricksen Drive, Missoula County, with the bids to be awarded on November 24, 1993, at 1:30 p.m.

Rural Road Mileage Certification

The Board of County Commissioners signed a letter to the Secondary Roads and Statistics Bureau Montana Department of Transportation, certifying that the rural road mileage in Missoula County, exclusive of the Federal-Aid Interstate and Primary Systems, amounts to 1551.833 miles. The Certification was returned to Bob Holm at the Road Department.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

OCTOBER 27, 1993

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

Audit List

The Board of County Commissioners signed the Audit List, dated October 26, 1993, pages 2-41, with a grand total of $150,284.10. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

COS Agricultural Exemption

The Board of County Commissioners signed a Certificate of Survey Agricultural Exemption for a tract of land located in the east one-half of Section 2, Township 13 North, Range 17 West, Principal Meridian, Montana, Missoula County, the Twin Creek Logging Camp for Champion International. The COS was returned to Ron Milam of Druyvestein, Johnson & Anderson for further handling.

Plat & Subdivision Improvements Agreement and Guarantee

The Board of County Commissioners signed the plat for Rossignol Orchard Tracts being Lot 2 of Allomont Orchards, Block 1, Lots 1, 2, 3 and 8 of a subdivision located in the NE1/4 of Section 35, T12N, R20W, P.M.,M., with a total area of 9.776 acres, the owner of record being Kenneth W. Allen. Cash-in-lieu of park land was received by the County Treasurer in the amount of $3,222.22. Also signed was a Ssubdivision Iimprovements Agreement and Guarantee for the improvements which remain to be completed on the above plat, are installation of curbs and gutters, paving of streets and engineering services which shall be completed no later than two years from the date of the final plat approval, with an estimated cost of $60,964.75. The Agreement was

secured by Montana Trust Indenture on October 25, 1993, encumbering Lots 17, 18, 19 and 20 of Rossignol Orchard Tracts.

Certification of Acceptance for Maintenance

Chair Ann Mary Dussault signed a Certification of Acceptance for County road maintenance No. 93-008 for Karra Court, a road located in T13N, R18W, Section 35. The Certification was returned to the Surveyor's Office.

Agreement

The Board of County Commissioners signed a Solid Waste Transportation and Disposal Agreement between and the Seeley Lake Solid Waste Management District and Browning-Ferris Industries of Montana, Inc., for the purpose of transportation and disposal services of non-hazardous solid waste, as per the terms set forth, for a period of five years commencing October 27, 1993.

Other items included:

1) The Commissioners approved accepting a Contract for Deed for Raymond and Lora Rose as the parcel was created prior to the amendments to the Subdivision and Platting Act; and

2) The Commissioners approved listing the number for the Board of County Commissioner's Office as a direct dial line.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Commissioner Ann Mary Dussault. Also present were Commissioners Barbara Evans and Fern Hart.

BID AWARD: TWO (2) VEHICLES - SHERIFF'S DEPARTMENT

Ann Mary Dussault explained from information received from Doreen Culver, Support Services, that the Sheriff's Office opened bids for two passenger vehicles to be used by their deputies on October 19, 1993, with the following results:

	Car #1	Car #2
Karl Tyler Chevrolet	$13,300	$13,300
Flanagans	$17,451	$17,451
Grizzly Auto	$12,425	$12,425

After reviewing the bids and making a visual inspection of all cars submitted, the Sheriff's Office recommended that the bid be awarded to Grizzly Auto in the amount of $24,850 for the purchase of two Dodge Dynastys as they were found to meet all specifications and requirements and were the lowest bidders.

A discussion ensued concerning confusion caused by a bid at last week's Public Meeting. It was concluded that the confusion arose from the Animal Control bid for a utility vehicle.

Fern Hart moved and Barbara Evans seconded the motion to award the bid for two passenger vehicles for the Sheriff's Department in the amount of $24,850.00 to Grizzly Auto as the lowest and best bid which met all bid specifications. The motion carried on a vote of 3-0.

BID AWARD: OXY FUELS CONTRACT - HEALTH DEPARTMENT

Ann Mary Dussault explained from information received from Ken Anderson, Air Quality Specialist for Environmental Health, that in October, the City-County Health Department sent "invitation to Bid for Contracted Services" requests to seven companies to perform the duties involved with ensuring compliance with the oxygenated fuels program. Four bids were received from companies who are all well qualified to these perform duties with the following results:

Land & Water Consulting	$5,840
Shannon Environmental	$6,750
Envirocon, Inc.	$5,500
Hazcon, Inc.	$6,440

The staff recommended that the bid be awarded to Envirocon Inc. in the amount of $5,500 as the lowest and most qualified bidder.

Jim Carlson, City-County Health Department, explained that the bid was about $2,000 lower than last year's bid from Envirocon, Inc.

Barbara Evans moved and Fern Hart seconded the motion to award the contract to perform the duties involved with ensuring compliance with the oxygenated fuels program to Envirocon, Inc. in the amount of $5,500 as the lowest and most qualified bidder. The motion carried on a vote of 3-0.

Contract

The Board of County Commissioners signed a Contract between Missoula County and Envirocon, Inc., for the purpose of insuring compliance with Rule 1429 of the Missoula City-County Air Pollution Control Regulations Sections 4a, and 7a-d, as per the terms set forth, for a total sum not to exceed $5,500.00. Such compensation sahll be $44.00 for each record review conducted and $54.00 for combination record review and sampling. The contract shall commence November 1, 1993 and shall conclude February 28, 1994. The Contract was returned to the City-County Health Department for further signatures and handling.

The Board of County Commissioners signed a contract between Missoula County and Envirocon, Inc. in the amount of $5,500.00.

HEARING: RESOLUTION OF INTENT TO CREATE RSID #8453 (CONSTRUCTION OF SEWER IMPROVEMENTS FOR A PORTION OF LOWER MILLER CREEK/LINDA VISTA AREA)

John DeVore, Administrative Officer, explained that in September of 1992, the Department of Health and Environmental Sciences issued an Administrative Order to the Board of Missoula County Commissioners and the Missoula City-County Board of Health seeking corrective action relative to groundwater contamination in the Linda Vista Subdivision area of Missoula County. This Administrative Order required the development of a master plan by the Missoula City-County Health Department and recommended to the Missoula Board of County Commissioners to undertake certain steps before November 30, 1994. One of these steps was to create an RSID to finance the construction of a sewer system to serve the area identified in the master plan. RSID 8453 is intended to serve this purpose.

During the protest period which ended October 25, 1993, six letters of protest were received relative to the creation of this RSID; however, one of the protest letters received from Dave Rodli was withdrawn.

The staff recommended the creation of RSID 8453.

The hearing was opened to public comment.

Barbara Cornelius, an owner of the 8 acre McCullough farmhouse and cottage for 16 years explained that they have paid property tax on all the lots as lots--not bare ground. The house and cottage sits on three lots and the pasture. Due to the RSIDs in the area, they are looking at an $80,000 SID at a time they were hoping to retire. They have talked with John DeVore through their lawyer who indicated if they can show their house sits on two lots and give up the right to develop the third lot, they will only be charged for two sewer hookups for the three lots. If this RSID is created, they will be forced to sell their total property. The value of the land will increase due to the sewer; but they will have to sell with the RSID attached to the sale. They have been told they can give up the right to develop the lots, but will have no sewer hookups after paying taxes on these lots for 16 years. Their property is on the very east side of this proposal. The two septic tanks are pumped regularly every two years; they have never had any problem. She wondered why the neighbors to the east who are higher in elevation than they are are not included in the RSID? If the neighbors develop their property, their septic will eventually contaminate their well. Many people in Linda Vista will have to sell their homes if this RSID is created. She stated she will be paying $1,000 a month to the County. They will own the property in 2 years. She wondered if the resolution would be adopted at today's meeting? Can a percentage of the neighbors stop the RSID?

Woodford Glen Baumgartner, resident of the area, stated he found about this RSID in time to attend the last meeting. He stated his property was roped into the RSID at the end because it was located on the far eastern corner. The people who live on St. Thomas Drive weren't notified; he found out through his neighbors. He stated he bought his lot in 1983, but didn't build until two years ago. He put in a sewer system, which far exceeded code, not knowing the sewer would come in two years later. He wondered how he could have polluted Linda Vista in the last two years. He wondered how the RSID would make any improvements to his residence and his lot. A STEP system would make his home less attractive to buy. This system will not work any better than what his

existing system is already doing. His existing system will work for an additional 20 years. He said this sewer will not do anything to improve water quality than what his existing system is already doing now. How could a normal family prepare for this financial situation? He explained his increasing taxes due to the reassessment of his home, the RSID's in the area as well as the school bonds. He said the assessment for the sewer hookup won't improve the water quality. He wondered about the impact of fertilizers on the ground water?

John Zimorino, resident of Linda Vista, asked the amount of the proposed RSID? Since the sewer is being forced on the residents and they were required to sign waivers, will the residents give up right to protest annexation and future RSID's? What if the residents refuse to sign the waivers?

Suzanne Monroe, 620 St. Thomas Drive, wondered how she can keep her home? She works three jobs now. She is a single widow and has raised three children. Does anybody care?

William Hicks, a resident of Linda Vista, is retired with a fixed income. He said they live at top of a hill. If everyone on the bottom of the hill is on the sewer, how can they endanger their water supply when they are on city water? This RSID will work a hardship on the people. There are many new homes in area; can't the City come up with something to help people in this area?

There being no further testimony, the hearing was closed to public comment.

Jim Carlson reviewed a map which reflected the nitrate levels in the Linda Vista area. Shown in red were wells that violate the standard. As a result of the information collected since 1981 and the three failed attempts to establish SIDs, the State Department of Health ordered the Board of County Commissioners and the City-County Board of Health to take action to resolve ground water contamination. In determining what areas needed sewering, they went through the wells they had elevations for and others were surveyed. The level of the ground water was measured from the casing of the well to the groundwater. From this, contour maps were developed to determine where the groundwater flows in the area. From this, they developed groundwater flow maps. He described, by the use of the maps, the flow of the water through the various areas. Water picks up nitrates from the areas it flows through, eventually causing problems at the very bottom.

Fern Hart asked if some of the residents were on City water?

Jim Carlson said there is public water into a lot of this area. However, the public water wells are also being affected; Mountain Water wells are affected by flow from Linda Vista. There is very little dilution to dilute the water. As a result, the nitrates concentrate very quickly. Studies conducted elsewhere in the country have indicated that fertilizers represent a very small percentage of nitrates in the water. He said many people in the lower areas don't have to fertilize because there is enough in the water to keep the grass quite green.

Chip Johnson, DJ&A, project engineer for the proposed RSID, explained that over a year ago the County selected his company to do the engineering study on providing gravity collection to the area. He explained that the boundaries were selected from the hydrology work which indicated the general direction of movement of the groundwater flow and where the potential contaminants could be coming from. He explained that the City has done some master planning for sewage in the Upper Miller Creek, Lower Miller Creek and Linda Vista areas. In the last few years, the sewer interceptor main has been extended into the Lower Miller Creek and Linda Vista area. Because of the topography to the east of this area, a normal dividing line occurs. The creation of this RSID is primarily driven by the order from the State to clean the groundwater. Nearly every home within this area could connect to a public water system. The residents in the St. Thomas Drive area do not have water mains.

Glen Baumgartner stated that in the St. Thomas Drive area, many people use grass fertilizers. He stated that some of the more expensive properties have been omitted from the RSID. He expressed concern that the agencies involved in this project use ambiguous terminology which leaves a person unsure of what is really happening. So few homes are in violation; is the solution in the other direction? Everyone may feel the victim instead of getting a solution to the problem. This is a heck of a penalty to pay.

John DeVore explained that the total amount of the RSID is fixed at $10,000 per sewer unit. The RSID will be financed over 20 years and an application will be sent into the State Revolving Loan Program for a rate of 4%. This action will not preclude the residents from the ability of being able to protest other RSIDs/SIDs in the future. Regarding the contract for sewer and waiving their right to protest annexation, he said those individuals not within the red area and who will not be forced to connect at initial construction, will not be approached about a contract or waiving their right to protest annexation. Those individuals who are connected will be approached to sign these documents. He stated that dialog with the City has revealed is it will be a forced issue. The County is still trying to redraft the original resolution to revisit the agreement and solidify everyone's understanding of that original agreement. This agreement was to preclude annexation for the term of the debt. In terms of Mrs. Cornelius' house which straddles two properties, he said it would be considered two sewer units versus three. If the lot couldn't be

built upon, it couldn't be assessed. Regarding the five lots that comprise the pasture, the property owner would grant an easement to give up development rights.

Barbara Evans wondered if in some cases the County has not required this, but have indicated they would have to buy into the sewer at future date if they wanted to develop?

John DeVore explained that the major projects where this has been done has been with owners of raw ground. Because these projects were capacity driven, they tried to determine how large to make the pipe. A contract was necessary for the specific number of users. If they were excluded from that or chose not to participate, then by this act they would not be allowed access to the pipe because it was designed for a certain capacity. The only time this particular option was used was in the instance where it went through an area that chose not to participate to get to an area that chose to participate. The pipe was sized to ultimately serve the people who did not participate, but were allowed to buy in at future date. When this has occurred there, the costs have actually tripled.

Michael Sehestedt explained that at this point, all of the preliminary steps have been taken. The Commissioners will decide at today's meeting whether or not to create the RSID. He said the statutory process has been fulfilled. At today's hearing, the Commissioners will determine the protests. If 50% or more protest the creation of the RSID, then it can only be created by unanimous vote of the Board of County Commissioners. If less than 50% protest, then a simple majority of the Board can create the RSID. At this point, the protest period has closed, and the Commissioners have received written protests from less than 50%. The district can be created by less than a majority vote. Even if there had been 50% or more protest, because this is a sanitary sewer project, unanimous vote by the Board of County Commissioners could have overridden this protest. He said if the County were to not go forward with the sewer SID, the State Department of Health and Environmental Sciences would invoke sanctions against the County under the order and also exercise its authority to reimpose sanitary restrictions on the entire area with the net result of precluding the area of subsurface sewage disposal. They also have the ability to impose a no-flush standard where the residents would not be able to use their septic systems with no other alternatives available.

Jim Carlson said the people most affected by nitrates are infants and people on dialysis. The affect on infants is Blue Baby Syndrome. People who are on dialysis have to have low nitrate water. He explained that 80 milligrams per meter of nitrate is typical of the effluent leaving the septic tank; 10-15 milligrams per liter are typical in the most affected wells. This means that 20-25% of their water has gone through someone's septic tank.

Barbara Evans responded to the question: does anyone care? She stated it distressed her to think that anyone would ask that. In the last 15 years, the County has been trying to figure out how to protect the ground water. When the State gives orders for the County to do something or it will impose sanctions, the Commissioners must care about this too. The County also cares about the health of people drinking contaminated water. The County has pursued the issue of no annexation with the City because the County does care about the residents in this area. The potential for the residents to lose their homes is real. Because of this, the County got the City to agree not to annex for the period of the debt. The City has since said that they would not annex unless 50% of the people sell their homes. The County has also contacted lending institutions to put together a program which will provide low interest loans, and the capability for people to refinance their homes to include the cost of the RSID so their overall cost won't go up per month. She said the County has tried, but can't do everything. They've also tried to bring in Federal money three times. But people who lived out there said "no" if it meant annexation. When this was first approached, the cost was around $3,700; the cost is now around $10,000. The County did not do this--it was the residents who said no.

Fern Hart said the assessment per year for the RSID would be $690 per unit.

John DeVore explained that this will be separated into two payments on the property tax bills. Also, the RSID in the yellow area has been created. The individuals are now gaining the benefit from infrastructure that is already there. Their assessments will begin in November of 1994. The assessments in the larger area will begin in November of 1995. This was to allow the residents to make needed adjustments to be able to accommodate the $600-700 increased costs per year.

Fern Hart asked if a person is assessed an RSID do they have to connect if they don't live in the red area.

Jim Carlson explained that if a residence outside the red area has a seepage pit, they must connect.

Ann Mary Dussault wondered if Suzanne Monroe qualified for the CDBG Program.

Suzanne Monroe stated that she missed qualifying by $1,200.

Jim Carlson said at the last session of the Legislature, Missoula County was lucky enough to get the maximum $100,000 grant to help people in this area with the actual connections. Those people who do connect will be

eligible for a percentage of their connection costs. The Health Department is in the stages of finalizing this agreement with DNRC. Also, the Water Quality District will be putting all of the capital portion of its program for the first two years into the Linda Vista area for connections. This is also $100,000 or $50,000 a year.

Barbara Evans asked how people could apply?

Jim Carlson explained that this will be answered in the next stage during the public meeting process. This $200,000 will be spent helping people connect to the sewer system in the entire area, although there may be different amounts spent in the different areas. He said the yellow area will not be eligible for this money.

Ann Mary Dussault asked about an existing sewer line in Jolinda Court and if they would be paying twice for the infrastructure?

Chip Johnson explained that Jolinda Court is a small cul-de-sac in a subdivision that the Commissioners approved a few years ago called Gustufson Addition. With the platting of Gustufson Addition, the State and local Health Departments had some concerns about the problem of contamination of the ground water. They required that the homes be built with STEP tanks and drylaying of a sewer main in Jolinda Court was required. The systems are now being monitored. The sewer main in Jolinda Court is a piece of infrastructure that is in. It is a viable part of the project and they intend to use it. The four homes which abut the line can use this line once the final designs are done. Their assessments will be adjusted to compensate for the existing infrastructure.

Barbara Evans asked that the question of the wealthy not being included in the RSID be addressed.

John DeVore said that in past discussions with the City, what properties would be served by what main, was discussed. It was evident that ultimately there would be sewer main that went up Miller Creek and Lower Miller Creek. Based on the hydrology and the conclusion of ten meetings, these divisions were drawn.

Glen Baumgartner stated that some of the residents of St. Thomas Drive as well as other areas, were roped into a solution to other's problems. They didn't have the ability to be part of the group who entertained the option of obtaining Federal aid. He requested that the Commissioners speed up the process in the Assessor's Office to reflect the loss of value in the homes in the area. The assessments are based on past sales of homes. If the process could be speeded up, the residents won't be so adversely impacted.

Fern Hart explained that the Assessor's Office is a State office and the Commissioners have no jurisdiction over them.

Bill Hicks wondered if the residents in this area paying the cost of sewering, why would the City want to annex the area?

Ann Mary Dussault said if she was queen for a day she would create a policy to encourage people to hook to the sewer by a contractual mechanism, with the City being the provider of the sewer service. However, the City does not view it this way. The City's view is when a resident begins utilizing City services then they require the resident to give up their right to protest annexation when they decide to annex. This is why the County is trying to negotiate an agreement with the City so they won't annex. The City's view is that once a resident begins receiving municipal services, then it is fair game for the residents to share the burden. This Board does not agree with this view, but it does not matter. There are no alternatives to the sewering issue other than to hook up to City sewer; unfortunately annexation follows.

Fern Hart said the City will pay for maintenance and electricity before an area is annexed.

Jim Carlson explained that the City's view is that they have spent a lot of money on the sewer main--$1.7 million on Reserve Street--to have the ability to serve the area. If a residence uses the City's services, they must waive their right to protest annexation and pay their fair share. He said the City has done something for this area they've never done for anyone else to help correct a serious groundwater contamination problem. The City has also guaranteed, at least for some period of time, that they won't annex. The City administration has supported this agreement and feel that the groundwater issues are more important than the territorial issues involved. He said it may not feel like it now, but this area is getting more than anyone else has ever gotten. Many homes are on City sewer on a contract basis without being annexed.

Barbara Evans asked that when the audience receives their tax bills, they look at the enclosed flyer. Missoula County's taxes could have been increased by levying the same number of mills; however, Missoula County is levying 5.9 mills less than in 1987. Missoula County has the capability to tax its residents more, but has chosen not to.

OCTOBER 27, 1993 (CONT.)

Michael Sehestedt explained that Missoula County collects for a number of other taxing entities which have increased their levies.

Barbara Cornelius asked if there were any statistics on the number of Linda Vista residents within the red area who have created their own problem by having cesspools, etc. She stated this area created a problem; by hooking up to sewer, they may be alleviating their problem, but the outlying areas, who haven't been affected, are being asked to join when the problem was not their creation.

Ann Mary Dussault said some of the issues raised by Ms. Cornelius' problem are probably answers which should be discussed in more detail. However, this doesn't impede Commissioner action. The property will not be taken out of the district, but the circumstances may warrant another kind of assessment.

John DeVore said the County is working with an area with different and unique situations; they need to look at these circumstances and administratively recommend solutions to the Board. All of the proposed properties will still be within the District.

Jim Carlson said that the Water Quality Bureau has recognized this as a problem for quite some time. Historically, in the State of Montana, when there is a groundwater violation, the source is sought and identified. However, when there are so many sources so close together, the science of this gets very messy. Everyone has contributed a certain amount to the problem. Two sessions ago, because of Linda Vista and a similar area in Kalispell, the Water Quality Bureau asked the Legislature to authorize the Bureau to order local government to solve the local problems. This gave local governments the authority to set up RSIDs to put in these sewer systems. Generally, if sewer goes into an area, this will solve the problem. He said this area in particular is largely on seepage pits and are causing a larger percent of the problem; however, generally the water gets worse as it flows down-hill. Rather than trying to draw the line at the absolute minimum, the choice was made to include those homes from the groundwater flow maps despite their extent of contribution.

Fern Hart moved and Barbara Evans seconded the motion to create RSID 8453 for the construction of sewer improvements to serve a portion of Lower Miller Creek and the Linda Vista area of Missoula County. The motion carried on a vote of 3-0.

Fern Hart stated that eventually all of the Missoula valley needs to be on sewer. Everyone needs to be responsible for keeping the aquifer drinkable. The Commissioners have been brave during this process and the Health Department has led the way. This is something that needs to be done now.

Barbara Evans asked for any ideas to assist the Commissioners to help the residents.

CONSIDERATION OF: ANDERSON-BUCKLEW ADDITION - SUMMARY PLAT

Ron Ewart, Planner at the Office of Community Development, explained that Anderson-Bucklew Acres proposed summary plat is a 2-lot division of an existing 10.07 acre tract shown on the County plat book as Lot 10 in Book 227, Page 1650. The property is located on Grant Creek Road 3/4 mile north of Snow Bowl Road in Section 16, T14N, R19W. Lot 10 is one of a series of long, narrow lots that are bisected by or run perpendicular to Grant Creek Road and are recorded as Certificates of Survey or as Deed Restrictions. Grant Creek Road is located within a 65-foot public access and public utility easement. A double wide trailer, shed, and driveway exist on the western half of Lot 10 which will be known as Lot 10A. Lot 10A crosses Grant Creek and will be 5.48 acres in size. The Andersons, who reside on Lot 10A, own the mobile home and plan to purchase the lot after approval of this subdivision. Lot 10B, the eastern half of existing Lot 10, will be 4.59 acres. A house, garage, and driveway exist on proposed Lot 10B. The subject property is zoned C-A3, at a density of one residential unit per 5 acres. The two households on the existing Lot 10 meet the density requirements. However, they are not in compliance with the 1/3 lot width to length ratio requirements of the Missoula County Subdivision Regulations and therefore are non-conforming lots. This subdivision was not created through Missoula County subdivision review.

The submittal packet by Eli & Associates states, "In the early 1960's the SE 1/4 of Section 16 was divided, using legal descriptions and some deed exhibits, into 16 10-acre tracts which measure approximately 165 by 2650 feet. These long narrow tracts are 60% in steep hillsides and 40% in developable land. Both Grant Creek and Grant Creek Road cross the 40% developable land. Houses were built on one side of the road or the other and because the road physically divided the property, the other side of the road was soon developed using legal descriptions or later Certificates of Surveys. The majority of the original 16 tracts are now divided along Grant Creek Road and have been developed. Mr. & Mrs. Bucklew's tract is one of the few tracts still in one piece. Although it is still one ownership the tract has been developed on both sides of Grant Creek Road. Mr. & Mrs. Bucklew wish to divide their tract along Grant Creek Road and then sell Tract 10A and keep Tract 10B."

The Community Development staff recommended that the summary plat of Anderson-Bucklew be approved, subject to compliance to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. The following shall appear on the face of the plat and in each instrument of conveyance, and shall run with the land: "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to any future RSID for improvements to Grant Creek Road and may be used in lieu of their signatures on an RSID petition."

4. Approved approach permits for both lots shall be required and approved by the County Surveyor.

5. A $50 fee per lot shall be paid to the Missoula County Rural Fire District toward the purchase of fire fighting equipment.

6. Any slopes over 25% shall be declared a no-build/ no-excavation area, and shall be labeled as such on the face of the plat.

7. The location of the 100-year floodplain shall be shown on the plat, and the area within the 100-year floodplain on both sides of Grant Creek shall be declared a no-build/ no-excavation area, and shall be shown on the face of the plat as such.

8. The developer shall advise the residents of the measures to help alleviate wildlife concerns under the section of this report entitled "Wildlife and Wildlife Habitat" prior to filing of the summary plat.

Steve Inabnit, Eli & Associates, representing the Bucklew's, stated that they were in full agreement with the conditions as listed.

Barbara Evans moved and Fern Hart seconded the motion to approve the Summary Plat of Anderson-Bucklew Addition, subject to the findings of fact contained in the Office of Community Development staff report and subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. The following shall appear on the face of the plat and in each instrument of conveyance, and shall run with the land: "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to any future RSID for improvements to Grant Creek Road and may be used in lieu of their signatures on an RSID petition."

4. Approved approach permits for both lots shall be required and approved by the County Surveyor.

5. A $50 fee per lot shall be paid to the Missoula County Rural Fire District toward the purchase of fire fighting equipment.

6. Any slopes over 25% shall be declared a no-build/ no-excavation area, and shall be labeled as such on the face of the plat.

7. The location of the 100-year floodplain shall be shown on the plat, and the area within the 100-year floodplain on both sides of Grant Creek shall be declared a no-build/ no-excavation area, and shall be shown on the face of the plat as such.

8. The developer shall advise the residents of the measures to help alleviate wildlife concerns under the section of this report entitled "Wildlife and Wildlife Habitat" prior to filing of the summary plat.

The motion carried on a vote of 3-0.

HEARING: CERTIFICATE OF SURVEY REVIEW - JOHNSON - FAMILY TRANSFER - TRACT B OF COS 2039

Kathy Smith, Paralegal for the County Attorney's Office, explained that Jesse A. and Ella K. Johnson submitted a request for a family transfer exemption for Parcel B of COS 2039. Parcel B is a 76.716 acre parcel and Mr. and Mrs. Johnson propose to transfer approximately half of the parcel to their son and daughter-in-law, Gerald J. and Rae Jean H. Johnson.

OCTOBER 27, 1993 (CONT.)

The history of the parcel is as follows: COS 2039 was filed in July 1979, relocating the boundary between two parcels of property dividing the property into West/East portions, instead of their previous north/south division. The other parcel belongs to Jesse Johnson's brother, Eugene L. Johnson.

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

The hearing was opened to public comment.

Ann Mary Dussault commented that the 76 acre tract is not zoned, is out of the building permit jurisdiction area, and the Comp Plan designates the area as one dwelling unit per 10 acres.

Jesse Johnson explained his intent is to divide the parcel in half which will be transferred to Gerald J. and Rae Jean H. Johnson. He has two sons; his other son will get the other half at a later date. The access to the parcel is off Highway 93. The property has been in the family since 1900. He will hand it down to his own sons.

There being no further testimony, the hearing was closed to public comment.

Barbara Evans moved and Fern Hart seconded the motion to approve the family transfer exemption for Jesse A. and Ella K. Johnson for Parcel B of COS 2039, based on the finding that the request does not attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 3:05 p.m.

OCTOBER 28, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Subgrant Application

Chair Ann Mary Dussault signed a Subgrant Application to the Montana Board of Crime Control. The Application was returned to Cindy Klette, Grants Administrator, for further handling.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and Warranty Deed to Jack I. Nelson and Billie L. Nelson for the sale of Tract No. 29 of Supplemental Plat of the School Addition. The documents were returned to First Montana Tittle Company for further handling.

Resolution No. 93-080

The Board of County Commissioners signed Resolution No. 93-080, a resolution to authorize filing of application with the Montana Department of Health and Environmental Sciences and the Montana Department of Natural Resources and Conservation for a loan under the Montana Wastewater Treatment Revolving Fund Act on behalf of the Linda Vista/Lower Miller Creek Area Sewer Collection Districts (RSID #8452).

Resolution No. 93-081

The Board of County Commissioners signed Resolution No. 93-081, a resolution to authorize filing of application with the Montana Department of Health and Environmental Sciences and the Montana Department of Natural Resources and Conservation for a loan under the Montana Wastewater Treatment Revolving Fund Act on behalf of the Linda Vista/Lower Miller Creek Area Sewer Collection Districts (RSID #8453).

Professional Services Contract

The Board of County Commissioners signed a Professional Service Contract with the Western Montana Regional Mental Health Association, independent contractor, for the PHC/Health Department, for the purpose of presenting a series of five inservices for the Partnership Health Center staff on diagnosing and treating mental health concerns

OCTOBER 28, 1993 (CONT.)

presented by the patients and on referral sources in the community, as per the terms set forth, for the period commencing July 26, 1993 through November 22, 1993, for compensation not to exceed $1,500.00.

Contract

The Board of County Commissioners signed a Contract between Missoula County and Purity Cleaning Services, Inc., for the purpose of complete cleaning services of the Missoula County Courthouse, the Missoula City-County Health and Human Services building, Missoula Federal Credit Union building, Missoula County Public Defender's Office, Missoula County Youth Court, and the Missoula County Print Shop, as per the terms and specifications set forth, for a total sum of $6,000.00 per month.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

OCTOBER 29, 1993

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

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

NOVEMBER 1, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Barbara Evans was out of the office attending a Corridor Preservation Course in Polson, November 1 and 2.

DAILY ADMINISTRATIVE MEETING

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

Contract

Commissioner Ann Mary Dussault signed a Contract between Missoula County and Montana State Department of Family Services, for the purpose of providing funding for a Domestic Violence Program which provides services to victims of domestic violence, as per the terms set forth, for a total sum of $31,000.00, commencing July 1, 1993 through June 30, 1994. The Contract was returned to Cindy Klette for further handling.

Labor Agreement

The Board of County Commissioners signed an Agreement between Teamsters Local No. 2--Civilian Detention Officers and Missoula County for the purpose of promoting harmonious relations between Missoula County and the Union; the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, fringe benefits and other conditions of employment, as per the terms set forth, for the period from July 1, 1993 to June 30, 1995. The Agreement was forwarded to John Pemberton, Director of Personnel/Labor Negotiations, for further handling.

Payroll Transmission Sheet

The Board of County Commissioners signed the Payroll Transmittal Sheet for Pay Period #21, with a pay date of October 15, 1993, with a total Missoula County Payroll of $451,625.52. The Transmittal Sheet was returned to the Auditor's Office.

Application Forms for Wastewater Treatment Works Revolving Loan Program

Commissioner Dussault signed two applications for the Wastewater Treatment Works Revolving Loan Program for the purpose of obtaining financing for the water pollution control projects for RSID #8452 -- Linda Vista Sewer Collector - District #1 for the construction of a sewer collector system for a portion of Linda Vista 3rd Supplement Subdivision in Missoula County in the amount of $213,000.00, and RSID #8453 - Linda Vista Sewer Collector - District #2 for the construction of a sewer collection system for a portion of Southwest Missoula area - Lower Miller Creek/Linda Vista Area, Missoula County, in the amount of $2,020,000.00. The applications were returned to Jesse Sattley, RSID Coordinator, for further handling.

Extension Letter

The Board of County Commissioners signed an extension letter to Dick Ainsworth of Professional Consultants, Inc., approving a 180-day filing extension for Eagle's Nest Estates, making the new filing deadline April 24, 1994.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

NOVEMBER 2, 1993

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

Monthly Report

Chair Ann Mary Dussault examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending October 29, 1993.

Monthly Report

Chair Ann Mary Dussault examined, approved and ordered filed the Monthly Report for the Clerk of District Court, Kathleen Breuer, showing items of fees and other collections made in Missoula County for month ending October 20, 1993.

NOVEMBER 2, 1993 (CONT.)

Indemnity Bond

Chair Ann Mary Dussault examined, approved and ordered filed an Indemnity Bond naming Kia Moua Thao as principal for warrant #015238, dated August 12, 1993, issued on the Missoula County Claims Fund in the amount of $134.40, now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Agreement

The Board of County Commissioners signed a Professional Personal Services Agreement between Missoula County and the State of Montana, Department of Revenue, for the purpose of providing service for the Department's tax assessment computer system for the County of Missoula, as per the terms set forth, for the period through June 30, 1995, for compensation not to exceed $20,000.00.

Contracting Agreement

Commissioner Dussault and Commissioner Hart signed a Contracting Agreement between Missoula County and Candis A. Van der Poel, independent contractor, for the purpose of an inventory and classification system for County parks, open space and common areas, as per the terms set forth, for the period commencing October 12, 1993 through June 1, 1994, with a total payment not to exceed $30,183.50. The Agreement was forwarded to the Clerk and Recorder's Office for filing.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

NOVEMBER 3 , 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Ann Mary Dussault left for Anchorage, Alaska, to attend the Northwest Policy Center's Alaska Rural Futures Forum through September 6, 1993.

Audit List

Commissioner Evans and Hart signed the Audit List, dated 11-03-93, pages 2-28, with a grand total of $87,194.06. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Agreement

The Board of County Commissioners signed an Agreement between the City of Missoula and Missoula County for the purpose of remitting the unused portion of tax increment urban renewal monies for FY 93-94, to be released to the taxing jurisdiction in the total amount of $15,639.97 to the Missoula County Treasurer for the Fiscal Year 1994, which represents Missoula County's proportionate amount of the total tax levies lawfully set on property in the City's urban renewal district, as per the stipulations set forth, The Agreement was returned to Chuck Stearns, City Clerk, for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Acting Chairman Barbara Evans. Also present was Commissioner Fern Hart.

HEARING: ANNEXATION OF PARCEL OF LAND TO FLORENCE RURAL FIRE DISTRICT (ANITA J. GLEADALL)

Barbara Evans explained from information received from Phyllis Browder, Recording Supervisor in the Clerk and Recorder's Office, that a petition was received to annex a parcel of land located in Missoula County to the Florence Rural Fire District.

NOVEMBER 3, 1993 (CONT.)

The petition for annexation was checked and verified. The petition contained signatures of more than 50% of owners of the privately owned land in the area to be annexed and a majority of the tax-paying freeholders within the area described, so they meet the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The area to be annexed is described as follows: BEGINNING AT A POINT ON THE EXISTING CENTER LINE OF LOWER WOODCHUCK ROAD, A COUNTY ROAD SAID POINT BEING 30 FEET SOUTH OF THE NORTH LINE OF THE NE 1/4 SE 1/4 OF SECTION 31, T11N, R19W, THENCE WEST ALONG A LINE 30 FEET SOUTHERLY AND PARALLEL WITH THE NORTH LINE OF THE NE 1/4 SE 1/4 OF SECTION 31 TO A POINT 30 FEET WESTERLY OF THE WEST LINE OF THE NE 1/4 SE 1/4 OF SECTION 31, THENCE N 09 DEGREES 30' W 180 FEET THENCE N 16 DEGREES W 240 FEET THENCE N 30 DEGREES W 810 FEET THENCE N 43 DEGREES 30' W 70 FEET THENCE N 84 DEGREES W 80 FEET THENCE S 72 DEGREES 30' W 90 FEET THENCE N 68 DEGREES W 135 FEET THENCE N 86 DEGREES W 485 FEET THENCE N 35 DEGREES 30' WEST 160 FEET THENCE N 06 DEGREES W 340 FEET THENCE N 03 DEGREES W 825 FEET MORE OR LESS TO THE NORTH LINE OF THE NE 1/4 NW 1/4 OF SECTION 31 AND THE TERMINUS OF THIS EASEMENT, THIS DESCRIPTION APPROXIMATES THE CENTERLINE OF A ROAD TO BE CONSTRUCTED AND THE "AS CONSTRUCTED" ROAD WILL BE ITS OWN MONUMENT.

The hearing was opened to public comment; there being none, the hearing was closed to public testimony.

Fern Hart said this particular request is from one property owner.

Fern Hart moved and Barbara Evans seconded the motion to annex a parcel of land located in Missoula County to the Florence Rural Fire District, based on the finding that the petition contained signatures of more than 50% of owners of the privately owned land in the area to be annexed and a majority of the tax-paying freeholders within the area described, so they meet the requirements of 7-33-2125 M.C.A. for annexation, described as follows:

BEGINNING AT A POINT ON THE EXISTING CENTER LINE OF LOWER WOODCHUCK ROAD, A COUNTY ROAD SAID POINT BEING 30 FEET SOUTH OF THE NORTH LINE OF THE NE 1/4 SE 1/4 OF SECTION 31, T11N, R19W, THENCE WEST ALONG A LINE 30 FEET SOUTHERLY AND PARALLEL WITH THE NORTH LINE OF THE NE 1/4 SE 1/4 OF SECTION 31 TO A POINT 30 FEET WESTERLY OF THE WEST LINE OF THE NE 1/4 SE 1/4 OF SECTION 31, THENCE N 09 DEGREES 30' W 180 FEET THENCE N 16 DEGREES W 240 FEET THENCE N 30 DEGREES W 810 FEET THENCE N 43 DEGREES 30' W 70 FEET THENCE N 84 DEGREES W 80 FEET THENCE S 72 DEGREES 30' W 90 FEET THENCE N 68 DEGREES W 135 FEET THENCE N 86 DEGREES W 485 FEET THENCE N 35 DEGREES 30' WEST 160 FEET THENCE N 06 DEGREES W 340 FEET THENCE N 03 DEGREES W 825 FEET MORE OR LESS TO THE NORTH LINE OF THE NE 1/4 NW 1/4 OF SECTION 31 AND THE TERMINUS OF THIS EASEMENT, THIS DESCRIPTION APPROXIMATES THE CENTERLINE OF A ROAD TO BE CONSTRUCTED AND THE "AS CONSTRUCTED" ROAD WILL BE ITS OWN MONUMENT.

The motion carried on a vote of 2-0.

PUBLIC COMMENT

Mary Alice Overacre, a Missoula County resident, voiced concern about the timbering in the Clark Fork Canyon by Plum Creek. Trees have been marked in this area to be cut down. The watershed and the wildlife will be stressed. She indicated she had been told by Commissioner Fern Hart that if an area will be adversely affected by the logging, the County can sometimes do a land trade.

The Commissioners thanked Ms. Overacre for her concern about the environment.

There being no further business to come before the Board, the Commissioners were in recess at 1:35 p.m.

NOVEMBER 4, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Amendment to Alcohol and Drug Community Services Contract

The Board of County Commissioners signed an Amendment to Alcohol and Drug Community Services Contract between Missoula County and the Western Montana Regional Community Health Center, Inc., for the

NOVEMBER 4, 1993 (CONT.)

purpose of amending the method of payment, as per the items set forth, commencing July 1, 1993 through June 30, 1994. The Amendment was returned to the Health Department for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

NOVEMBER 5, 1993

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

Election Canvass

In the forenoon, Commissioners Evans and Hart and County Auditor, Susan Reed, canvassed the City General Election, which was held on November 2, 1993.

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

NOVEMBER 8, 1993

The Board of County Commissioners did not meet in regular session; Ann Mary Dussault and Fern Hart attended a MACo District 10 and 11 Counties meeting in Polson during the day, returning to the office late in the afternoon.

Monthly Report

Chair Ann Mary Dussault examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace David K. Clark, for month ending October 31, 1993.

Monthly Report

Chair Ann Mary Dussault examined, approved and ordered filed the Monthly Report of the Sheriff, Doug Chase, showing items of fees and other collections on account of Civil Business in Missoula County for month ending October 29, 1993.

NOVEMBER 9, 1993

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

Audit List

Commissioners Dussault and Evans signed the Audit List, dated November 9, 1993, pages 2-34, with a grand total of $146,006.22. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-082

The Board of County Commissioners signed Resolution No. 93-082, a resolution creating RSID 8453, for the construction of sewer improvements for a portion of Southwest Missoula area - Lower Miller Creek/Linda Vista area, Missoula County, as per the items set forth.

NOVEMBER 9, 1993 (CONT.)

Resolution No. 93-083

The Board of County Commissioners signed Resolution No. 93-083, a resolution annexing a parcel of land as described, located on Woodchuck Road to the Florence Rural Fire District, and are to be assessed for said annexation a fire district levy along with other property already a part of said Florence Rural Fire District.

Modification of Agreement

Chair Ann Mary Dussault signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences concerning the "Follow Me" project (DHES No. 340193, amending the Paragraph (3) of Section III, as set forth in the Modification. The document was forwarded to DHES in Helena.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and the Montana Highway Traffic Safety Administrator for the purpose of more enforcement and public promotion of the use of occupant restraints, which form the basis for this year's integrated community safety project, as per the terms set forth, for the period through September 30, 1994, with total payment not to exceed $46,060.00. The Agreement was returned to Lonie Parson in the Health Department for further handling.

Other items included:

The Commissioners appointed Jack Chambers to the Missoula Aging Services Board to fill the unexpired term of Bill Potts until December 1, 1994.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

NOVEMBER 10, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-084

The Board of County Commissioners signed Resolution No. 93-084, a Budget Amendment for FY'94 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure		Budget
2270-613-445606-111	Permanent Salaries	$28,071
-141	Fringe Benefits	7,044
-206	Office Supplies	500
-213	Clinic Supplies	2,000
-214	Computer Supplies	500
-311	Printing	1,000
-327	Consultants	500
-356	Common Carrier	2,925
-357	Meals, Lodge, Inc.	2,000
-359	Mileage - Private	2,000
-367	Tuition, Reg Fees	1,000
		$47,540

Description of Revenue

2270-613-333014	Lead Program	$47,540

CDC Grant H64/CCH809148-01 received by SDES. These funds were then passed to Butte, then to Missoula, to conduct a childhood lead poisoning prevention program.

Resolution No. 93-085

The Board of County Commissioners signed Resolution No. 93-085, a Budget Amendment for FY'94 for the Historical Museum, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Budget
2360-462-460458-111	$4,858.89
-141	1,329.39
-206	3,421.47
	$9,609.75

Description of Revenue		Revenue
2360-462-331211	IMS Grant	$9,609.75

Professional Services Contract

Chair Dussault signed a Professional Service Contract with Dan Larson, independent contractor, for the purpose of opening and closing a transfer site as per scheduled days and hours designated by the Seeley Lake Solid Waste Management District Board of Directors, as per the terms set forth, for the period commencing October 1, 1993 to June 31, 1994, for compensation in the amount of $100.00 per day.

Professional Services Agreement

The Board of County Commissioners signed a Professional Service Contract with the YWCA, independent contractor, for the purpose of coordinating the SOK (Save Our Kids) project, a teen peer education/outreach effort, for the 1993-94 high school academic year, as per the terms set forth, for the period commencing October 1, 1993 through June 30, 1994, for total compensation in the amount of $1,200.00. The Agreement was returned to the Health Department for further signatures and handling.

Addendum to Purchase Agreement

The Board of County Commissioners signed an Addendum to Purchase Agreement between Missoula County and Jack and Billie Nelson for the purchase of land at the corner of vacated Cooley Street at Bulwer, Missoula County, dated August 17, 1993, extending the closing date to December 15, 1993 and also removing the contingency shown on lines 48 and 49 of Purchase Agreement (Buyer's Approval of title report, as per the items set forth, with all other terms and conditions of the agreement to sell and purchase remaining in full force and effect to the extend not modified by this addendum, The Agreement was returned to Doreen in Support Services for further handling.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present was Commissioner Fern Hart.

CONSIDERATION OF: SULLIVAN LOTS (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that Andy Fisher of Eli & Associates indicated that the developers needed to take another look at Sullivan lots and were not ready to come in for subdivision review. He received a letter from the developer which extended the review period for the subdivision beyond the normal regulatory time period. The developers will inform him when they are ready to come back into the process.

Fern Hart moved and An Mary Dussault seconded the motion to remove Sullivan Lots, Summary Plat from the agenda based on the request by the developer. The motion carried on a vote of 2-0.

At this time, Commissioner Evans joined the meeting.

NOVEMBER 10, 1993 (CONT.)

CLARIFICATION OF CONDITIONS FOR RED HAWK ACRES SUBDIVISION

Barbara Evans moved and Fern Hart seconded the motion that the Board of County Commissioners reconsider the Board's action at the Public Meeting on October 20, 1993, on Red Hawk Acres based on a misunderstanding of the information presented. The motion carried on a vote of 3-0.

Ann Mary Dussault explained that the effect of this action will be to place the item on the Public Meeting agenda for November 17, 1993. The public hearing portion and a full consideration of the subdivision will be reopened.

HEARING: COMPREHENSIVE PLAN COMPLIANCE APPEAL (DEREK FEEBACK) BUILDING PERMIT TO CONSTRUCT SINGLE FAMILY DWELLING IN UNZONED AREA

Bud Hettich, Office of Community Development, handed out an aerial photos of the six parcels showing the subject property which delineates Section corner 24 and 25, as well as two pages from the Lolo Comprehensive Plan text underlining an item dealing with this area. He explained that this hearing is for an appeal by Derek Feeback on the zoning officer's decision to deny him a zoning compliance permit based on non-compliance with the Lolo Comp Plan.

In 1981, 5,180 acres of the McCullough Brothers Ranch was zoned C-A1/PUD (Map #1), allowing a density of 518 parcels. McCullough's proposal was: 11 parcels on 57.6 acres, 220 on 250 acres, and 287 on the remaining 4,800 plus acres (Map #2).

The 220 parcels had to be reviewed and approved through the subdivision process, and the remaining 298 Parcels could be reviewed and approved by either the subdivision process or by the Zoning Officer (Exhibit F).

Between 1984 and 1991, McCullough's sold 19 parcels totaling some 4,925 plus acres by aliquot description and Certificates of Survey, including the property in question at this hearing, leaving a remainder of 255 acres.

Between 1984 and 1991, some of the 19 parcels that were sold received zoning officer approval, but most did not, nor were any of these 19 processed through subdivision review (Exhibit F).

In December 1991, McCullough's requested that the C-A1/PUD zoning be allowed to lapse (Exhibit G).

In August 1992, in a letter to Professional Consultants, Inc., Mike Sehestedt stated that the C-A1/PUD zoning ended with the expiration of the PUD. In this letter, Mike Sehestedt also advised PCI to the limitations of the County's Comp Plans (Exhibit H).

In March, 1993, the remaining 255 acres were zoned as the Miller Creek District- Land Sensitive Zoning Area, allowing a density of 61 parcels (Map #3). The 255 acre Miller Creek District- Land Sensitive Zoning Area has now been split by COS# 4208 into 12-20+ acre parcels (Map #4).

The decision to deny Mr. Feeback a zoning compliance permit was based on the following:

1) Mr. Feeback's 10.125 acre tract did not comply with the land use designation in the Lolo Comp Plan;

This 10.125 acre tract is shown as 4-A on COS# 4242, and is designated as Open and Resource (1/dwelling unit per 40 acres) by the Lolo Comp Plan. Located adjacent to Trails End Road above the Rodeo Ranchettes subdivision area; See Exhibits A- COS# 4242, B- Lolo Comp Plan, C- COS# 4242, and D- COS# 3936.

2) Mr. Feeback's situation did not match the deviations from comprehensive plan compliance as allowed by County Resolution 85-082; and,

This Resolution would allow Mr. Feeback's intended use if 50% or more of the land uses within 300 feet of his property were compatible with his intended use. More than 50% of the adjacent land is vacant. See Exhibit E.

3) Tract 4-A of COS# 4242 is a portion of Tract 4 of COS# 3936. Tract 4 of COS# 3936 was created April 1991, without review and approval through the subdivision process or Zoning Officer review as required by the C-A1/PUD zoning still in effect at that time. See Exhibit F, Section 3, d.

The C-A1/PUD designation reflected the Comprehensive Plan's recommendation that the entire land be developed at a maximum density of one dwelling unit per 40 acres; but it also allowed for some higher density development if one of two actions were taken: either a proposed land division would receive subdivision approval or, the County Zoning Officer would be asked to review a proposed land division and determine that such increased density would meet subdivision review criteria.

Furthermore, had Tracts 1-6 of COS# 3936 been created with zoning officer approval, the question remains, would these now-unzoned tracts have legal non-conforming status as building sites.

The staff recommended that Mr. Feeback's proposal be found not to comply with the Lolo Comp Plan and be denied pursuant to Resolution #83-99 and 85-082.

The hearing was opened to public comment.

Derek Feeback explained that he appealed the decision of the Zoning Officer on the basis that the C-A1 zone allows for density less than 40, but greater than 10 acres. The density of one unit per 10 acres is less than the density under the PUD. The County already approved the split of the 20 acre parcel into two 10 ten acre parcels and was also approved by the Health Department for septic. Adjacent areas are zoned at a density much greater than one unit per ten acres.

Dick Ainsworth, PCI, commented that he was not representing Mr. Feeback, but had represented the McCullough's in the past. This same problem applies to the other five properties. One of the parties had applied for a building permit, but was denied. He said Bud Hettich's history of the area was accurate, with a few exceptions. The McCullough Brothers, at some point in time, decided not to go through with the subdivision of their property as it was approved in the PUD. Adjoining property owners had some interest in buying some of the larger acreage tracts. At this point in time, Mr. McCullough had asked for and received from the Commissioners, several extensions to the PUD. He also sold off larger parcels without survey. In most cases, the purchasers were adjacent land owners. Mr. McCullough, on several occasions to several people, informally asked the Office of Community Development if he could give development rights to people who bought the parcels. These properties were part of the agricultural/recreational reserve that had 287 development rights. He was told that he could sell the development rights as long as he didn't give away more development rights than he had; he was not interested in giving away a lot of them. On several occasions he discussed this PUD situation with OCD and was told this was not a problem. The matter of keeping track of how many development rights he gave away was discussed; however, if at some point in the future he wanted to do something with his PUD, they wanted him to be able to show how many development rights he had sold.

He said when the 20 acre parcels were created, they did not go through the zoning officer. The process was unintentionally overlooked. Other splits did not go through zoning officer approval. He said it never dawned on them that to create the 20 acre parcels, they had to obtain zoning officer approval. Usually, 20 acre parcels weren't something that had to be approved by OCD. It was their intention to put covenants on the 20 acre parcels and tell people they could split the parcels one time. When the PUD was originally proposed, they intended a higher density through the PUD, because much of the 4,200 acres is undevelopable; however, a lot of the acreage is developable and they intended to go through the subdivision process. The 20 acre parcels were created and sold in early 1991. In late 1991, the PUD expired. In 1992, there were discussions with OCD and the County Attorney's Office about whether the property still in Mr. McCullough's possession was still zoned. Ultimately, Mike Sehestedt wrote the letter Bud Hettich referred to. During these conversations, the 20 acre splits were referred to. The density of these parcels was less than the density permitted by the PUD. Also discussed was the possibility of including that property in the zoning request that ultimately turned into the land sensitive zoning district. The consensus of these discussions was that since these splits occurred when the PUD was in place, and it was less dense than the PUD permitted, they didn't need to worry about it. There was no intent to circumvent the zoning or zoning officer review. He said they should have submitted this to the zoning officer, but it never dawned on them that they should have done this. Although there were several conversations with OCD as Mr. McCullough was selling the parcels off, they indicated that it was okay if it didn't exceed the density approved for 500+ units. He said he would be amazed if Mr. McCullough actually sold even 100 development rights; in most cases, he would give one purchaser two or three development rights for several hundred acres. Overall, the property is less than one unit to forty acres. He said this particular area is suitable for development at one unit to 10 acres. He read from the Lolo Land Use Plan which recognized that within the open and resource lands, some areas were capable of handling a higher intensity development. The area being discussed is exactly one of these areas. One unit per 10 acres is not dense. Mr. Feeback's parcel has been approved by the Commissioners and the Health Department; sanitary restrictions have been lifted. There can be specific areas that can be developed at a higher density and still be within the spirit of the Comp Plan. The density is substantially less than what the PUD allowed.

He said the McCullough's operated in good faith. Their intention was not to evade anything. They went to OCD for direction, but weren't told to get approval from the zoning officer.

There being no further comment, the hearing was closed to public comment.

Fern Hart asked what the surrounding acreages were subdivided into?

Dick Ainsworth explained that in the early 1970's the McCullough Brothers started the development of their ranch, Rodeo Ranchettes Phase I, into one acre lots. Phase II was developed into two to five acre parcels. The

lots in Rodeo Ranchettes average one to two acres in size. Within the land sensitive zoning district there are two 10 acre Certificates of Survey.

Fern Hart said the nearest divisions that are less than one unit per 40 acres are 1000 feet away. She said the creation of the 20 acre parcels occurred in early 1991 and the PUD lapsed in December of 1991. She asked for clarification of the regulations pertaining to this issue.

Michael Sehestedt, Deputy County Attorney, said the PUD regulations require zoning officer approval of the split. The PUD zoning which had been adopted, required that any divisions which did not go through subdivision review, need to be approved by the zoning officer prior to the division being placed in the record. The PUD is not explicit on how this approval is to be given. Apparently, it was to be given very informally for the earlier divisions. Based on Dick Ainworth's comments, Mr. McCullough was to keep tract of the development rights; when the total had been given away, then no more rights could be given away. This was a problem as there was no recordkeeping. No one ever raised this as an issue previously. Based on this, all of the splits are subject to challenge, even those as big as a section because they were not submitted and there was no zoning officer approval. He said this would be an issue if the zoning was still in force; however, the zoning is not in force. The zoning lapsed and these divisions are now simply divisions. The Commissioners need to decide how to deal with these divisions in light of the Comp Plan and of the request by Mr. Feeback for determination of Comp Plan compliance.

Fern Hart said since the PUD has lapsed, then the Commissioners must refer to the Comp Plan.

Michael Sehestedt agreed with this statement and said the Commissioners need to measure this in terms of the Comp Plan, exercising their judgment based on what they see as to surrounding land uses and language in Comp Plan. Based on all of this, the Commissioners must make a decision as to whether this particular request to develop a single family home on one 10 acre parcel, is in substantial compliance with the Comp Plan or whether it is not. The issues here are 1) an overall density of one to ten across the roadway and 2) there is sensitive land close by which is one unit per five acres. The criteria in V--Amendments to Section 2(d) could be applied to Lots 1 and 5 which abut Rodeo Ranchettes Phase II. It could be concluded, based on the foregoing that based on these two tracts, there is consistent land use within 300 feet. The problem confronting Mr. Feeback is that he is on the back side of this particular group of tracks and 300 feet is not close enough. This will also be the first house in this area and no matter how the property is divided, it is easy enough to say the use is open and resource because there is nothing on it.

Barbara Evans asked for clarification regarding the statement that some of the lots were illegally created?

Michael Sehestedt said it was his understanding based on what occurred, there was not a zoning officer approval of these particular splits. No one appears to have considered the question--if approval had been requested, would it have been granted? The division was not illegal under the Subdivision and Platting Act and did not violate the PUD zoning. The violation of the PUD zoning was the separate conveyance without first obtaining approval from the zoning officer.

Ann Mary Dussault asked if this piece of property were to be zoned in compliance with the Comp Plan, what would be allowable in terms of use and density?

Michael Sehestedt said the zoning which implements open and resource, is C-A1 which basically allows residential and agricultural use with some other exceptions. The density is basically one unit per 40 acres. However, there are provisions allowing either conditional or special exception use for tracts split down to one unit per ten acres using, under the regulations, various exemptions to the Subdivision and Platting Act. The density, were it zoned, could easily come in at one unit per 10 acres, subject to some review either as a conditional use or as a special exception. But the C-A1 zoning does allow 10 acre tracts.

A discussion followed relative to any concerns to the wildlife or plant life in the area. It was concluded that Mr. Feeback would preserve the two existing trees on the property.

Barbara Evans moved and Fern Hart seconded the motion to find that the proposed single family home on a 10 acre tract, described as Tract 4-A of COS #4242, in the Rodeo Ranchettes area be found to be in substantial compliance with the Comprehensive Plan based on the fact that the Comp Plan itself recognizes there will be areas in which residential development at a higher density is appropriate. Based on the surrounding land uses from the aerial photos and from the presentation, this is one of those areas within the C-A1 (one unit per 40 acres) wherein the requested use would be appropriate. Furthermore, where there is limited other land use within the 300 feet called for by the regulation, the immediate area has been developed at a density of approximately one unit per five acres in the Rodeo Ranchettes and in the Miller Creek Special Land Sensitive Zoning areas which are in close proximity. The motion carried on a vote of 3-0.

NOVEMBER 10, 1993 (CONT.)

Michael Sehestedt said overall, the density for the 255 acres with 61 units is approximately one unit per five acres.

Ann Mary Dussault acknowledged that the staff acted appropriately in denying the permit. This is a policy decision that had to come before the Commissioners. She said this determination should not be construed that this determination will be universally made in other areas of the County which have been subdivided by Certificate of Survey. This is a judgment based on this specific circumstance of this particular area.

Dick Ainsworth wondered how this would apply to the owners of the other 20 acre tracts? If Mr. Lucy applied again, would he be denied again?

Ann Mary Dussault said this is a discussion for Bud Hettich and Michael Sehestedt. She said the question of the 300 foot area is a question the County Attorney's Office will have to answer.

Dick Ainsworth commented that Mr. Lucy's parcel was within that distance, although Mr. Feeback's parcel was not.

Ann Mary Dussault commented that Mr. Lucy is not a part of this discussion because he elected not to appeal the denial.

Michael Sehestedt said if Mr. Lucy waits long enough, there will be 50% or more land uses within 300 feet around him.

Dick Ainsworth wondered how this determination would apply to the rest of the owners in the area?

Michael Sehestedt stated he would discuss this issue with Dick Ainsworth after the meeting.

Ann Mary Dussault stated that determinations may have to be made on a case by case basis for a while.

There being no further business to come before the Board, the Commissioners were in recess at 2:35 p.m.

NOVEMBER 11, 1993

The Missoula County Courthouse was closed in observance of the Veteran's Day holiday.

NOVEMBER 12, 1993

The Board of County Commissioners met in regular session; all three members were present. In the afternoon the Commissioners, Cindy Wulfekuhle, Cindy Klette and Ron Klaphake of MAEDC toured the New American Eagle Instruments facility on Palmer Street.

Indemnity Bond

Chair Ann Mary Dussault examined, approved and ordered filed an Indemnity Bond naming Kathleen Nerison as principal for warrant #37814 dated April 19, 1993, issued on the School District #40 Payroll Fund in the amount of $1,055.95 now unable to be found.

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

NOVEMBER 15, 1993

The Board of County Commissioners met in regular session; all three members were present. In the evening, the Commissioners attended a meeting with the Lolo residents regarding setting up a Community Council at 7:00 p.m.

NOVEMBER 15, 1993 (CONT.)

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmission Sheet

The Board of County Commissioners signed the Payroll Transmittal Sheet for Pay Period #22, pay date of 10/29/93, with a total Missoula County Payroll of $468,090.63. The Transmittal Sheet was returned to the Auditor's Office.

Resolution No. 93-086

The Board of County Commissioners signed Resolution No. 93-086, a Budget Amendment for FY'94 for the Health Department, including the following expenditure and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure		Adopted	Change	Amended
2270-613-445601-111	Perm Salaries	$ 85,416	$ 8,000	$ 93,416
-141	Fringe Benefits	21,431	$ 2,000	$ 23,431
		$106,847	$10,000	$116,847

Description of Revenue		Adopted	Change	Amended
2270-613-344290	Low Birthweight	$ 42,500	$10,000	$ 52,500

DHES Contract Modification No. 340075-01, Federal Catalog No. 93.994.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

NOVEMBER 16, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Addendum E to County Personnel Policies

The Board of County Commissioners signed Addendum E to the Missoula County Personnel Policies regarding policies for employees required to be on-call, which is defined to mean that the employee is required to carry a pager, be accessible to 9-1-1 dispatch or be accessible by telephone and available to report to work if necessary, as per the compensation rate set forth. The Addendum was returned to John Pemberton in Personnel for distribution.

Professional Services Contract

The Board of County Commissioners signed a Professional Service Contract with the Montana Natural History Center, independent contractor, for the purpose of administering the scheduling, distribution and maintenance of three Air Care kits during the 1993-94 school year; to provide office space, computer time, local and long-distance telephone service and office supplies for the purpose of administering the Air Care kits; advertise the Air Care kits through the Montana Natural History Center's newsletter; and keep financial records for the project, as per the terms set forth, for the period commencing November 15, 1993 and shall conclude May 31, 1994, for compensation not exceeding $1,160.00. The Contract was returned to the Health Department for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

NOVEMBER 17, 1993

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

Audit List

The Board of County Commissioners signed the Audit List, dated November 17, 1993, pages 2-33, with a grand total of $160,867.70. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Contract Amendment

The Board of County Commissioners signed an Amendment to a Professional Services Contract between Missoula County and John T. Browne, MD, independent contractor, amending the number of hours worked and the total amount of compensation, as set forth. The Amendment was returned to the Health Department for further signatures and handling.

Collateral Subordination Agreement

The Board of County Commissioners signed a Collateral Subordination Agreement between Missoula County and First Security Bank of Missoula, whereby the County has provided financial services to Industrial Design and Manufacturing, Inc., dba Spectrum Pool Products, the County and the Bank desire to agree upon the priority of certain security interests in certain of the Collateral, and the Bank may extend or may continue to extend financing to IDM in reliance on the priority of such security interests as set forth in the Agreement. The Agreement was returned to Cindy Wulfekuhle, Block Grant Coordinator, for further signatures and handling.

Environmental Assessment

Barbara Evans signed an Environmental Assessment for the Missoula County Airport Interchange submitted by Missoula County and the State of Montana Department of Transportation and the US Department of Transportation Federal Highway Administration Region 8. The Assessment was returned to Vaughn Anderson of DJ&A for further signatures and handling.

Other items included:

The Commissioners approved and adopted the budget for FY'94 for Larchmont Golf Course.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Fern Hart and Barbara Evans.

BID AWARD: ONE (1) UTILITY VEHICLE (ANIMAL CONTROL)

Ann Mary Dussault explained from information received from Don Zimmerman, Animal Control Supervisor, that bids were received for a utility vehicle for Animal Control with the following results:

Bitterroot Motors	$12,118.60
Karl Tyler	$12,251.00
Demarois Olds	$12,361.00
Flanagan's	$14,286.00

The second lowest bid, Karl Tyler Chevrolet, has 4-wheel anti-lock brakes and seats designed to prevent occupant ejection in a crash. Therefore, the staff indicated that because the Chevrolet was a safer vehicle and the price differential between Karl Tyler and Bitterroot Motors was $132.40, they recommended the bid be awarded to Karl Tyler Chevrolet in the amount of $12,251.00 as the lowest and best bid, with the understanding that is was not the lowest bidder.

Michael Sehestedt, Deputy County Attorney, explained that the law on County bidding allows the County Commissioners to accept the lowest and best responsible bidder. The lowest is a matter of mathematical computation. Responsible is typically whether or not the bidder can produce a bid bond or not. All of the individuals in this case are responsible bidders or firms. The question of best, however, is a matter that involves the discretion of the Board of County Commissioners. It may involve additional features or a particular item that may make it more desirable than the lowest bid. A classic example of the difference between lowest and best is where there is a minimal price difference or local maintenance facilities available for

the one product, but not for the lowest bidder. The question here is whether four wheel anti-lock brakes and seats designed to prevent occupant ejection in a crash make the second lowest bid sufficiently better that the County should forego the $132.40 savings and make the acquisition to the second lowest bidder. It is a policy decision vested in the sound discretion of the Board of County Commissioners.

Barbara Evans asked if the anti-lock brakes and the special seats were a part of the bid specifications?

Michael Sehestedt said it was his understanding that these were not part of the bid specifications. The County did not require the vehicles to have four-wheel anti-lock brakes and seats designed to prevent occupant ejection in a crash. It is, however, a feature that comes standard on this particular model. It is not a requirement of the bid. All of the bids are conforming bids. It becomes an issue only between conforming bids. They all meet the minimum requirements in the bid specifications, but one shows some features or advantages over the lowest bid that would make in the best interests of the County to accept other than the lowest bid.

Barbara Evans said she had no quarrel over the benefits, but she wondered if it was certain the same features were not in the other bids?

Don Zimmerman said the vehicle in the lowest bid has two-wheel ABS in the rear and the front are disk brakes. The seats are also flat and are not designed to prevent ejection in the case of a rear end accident. Unfortunately, the last two accidents have been from the rear of the vehicle. In one instance, the occupant did slip partially out of the seat.

Fern Hart asked if this was also true of the other bids?

Don Zimmerman explained that the Olds had the same features as the Karl Tyler vehicle; the Flanagan's vehicle is a Ford-made product and has the same limitations as the lowest bidder does. The Karl Tyler vehicle has two significant safety features that at the time the bid went out, weren't even known about. Some of these features are just coming out in the current year models.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bid for the Animal Control utility vehicle to Karl Tyler Chevrolet in the amount of $12,251.00 as the lowest and best bidder, based on the fact that the vehicle has two additional safety features not available in the lowest bid, and based on the recommendations of the Animal Control staff. The motion carried on a vote of 2-1 with Fern Hart voting against the motion.

RECONSIDERATION OF: RED HAWK ACRES SUBDIVISION

Ann Mary Dussault explained that a motion was made and passed at last week's Public Meeting to reconsider the Board of County Commissioner's action on the Red Hawk Acres subdivision. The Commissioners are now at the same point they were at the first hearing on October 20, 1993 on this subject, prior to making any motions. All testimony from staff and from participants remain a part of the official record and will continue forward for this reconsideration. The staff is prepared to make some recommended changes to the original staff report.

Ron Ewart, Planner at the Office of Community Development, explained that the OCD staff recommended that the summary plat of Red Hawk Acres be approved subject to compliance with the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

2. All easements shall be shown on the face of the plat.

3. Areas with a slope of 25% or greater shall be declared a no-build/no excavation zone and shall be indicated on the plat as such. Prohibited from construction on such slopes shall be any structures or roads.

4. The developer shall enter into an agreement with the governing body that there shall be no further subdivisions of these properties; the 5 lots fronting Highway 93 shall remain 5.0 acres in size and the remainder parcel shall remain 50.7 acres in size. Under this circumstance, the subdivision qualifies for a waiver of parkland dedication. This condition is revocable only by mutual consent of the landowner and the governing body, and if the future subdivision can be found in substantial compliance with the Comprehensive Plan. Any further subdivisions would necessitate the formal subdivision review process. This condition shall be stated in the covenants, and it shall appear on the face of the final plat and in each instrument of conveyance.

5. No more than one single family residential structure and structures accessory to residential and agricultural uses shall be constructed on either lot or on the remainder parcel.

6. Home occupation will be allowed as described in the agreement between the developer and the governing body.

7. A 1-foot no-access strip shall parallel the west property line of the 5 lots fronting Highway 93 except for the two access points that are shown on the submitted plat.

8. Grading, drainage, erosion control, sewer, water, street, and driveway plans shall be subject to approval of the County Surveyor.

9. The 54-foot private access and public utility easement shown on the submitted plat shall be labeled "54-foot public access and public utility easement". The street shall remain a private street until such time that the street is brought up to County standards and approved by the County Surveyor.

10. The internal street which connects the driveways of the 5 lots along Highway 93 shall connect with both access points that are shown on the proposed plat; the internal street shall be paved to a 20-foot width, the location of the street shall be shown on the face of the final plat, and the street shall be approved by the County Surveyor.

11. The driveways shall have at least a 20-foot paved apron for a distance of at least 20 feet from the edge of the internal street. The unpaved portion of the driveway shall consist of a gravel surface which is well drained.

12. The driveway that serves the remainder parcel shall meet County driveway standards to provide for physical, although private, access. The width of the driveway shall be at least 20 feet, the grade shall not exceed 12%, the first 20 feet shall be paved from the internal street, and it shall be approved by the County Surveyor.

13. The face of the plat and each instrument of conveyance shall state the following: "The purchaser and/or owner of the lot or parcel understands and agrees that private road maintenance and snow removal shall be the obligation of the owner or property-owner's association and that the County of Missoula is in no way obligated until the roads are brought up to standards and accepted by the County of Missoula."

14. Approach permits for the two access points to Highway 93 shall granted from the State Department of Transportation.

15. The following shall appear on the face of the plat and in each instrument of conveyance, and shall run with the land: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owner to waive the right to protest a future RSID for the improvement of the internal street which accesses Highway 93 and serves the properties of Red Hawk Acres."

16. The covenants shall recommend that homeowners obtain a copy of "Living With Wildlife". This brochure is designed to develop a more peaceful coexistence between humans and wildlife. A copy may be obtained from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, or Rural Planning, 200 West Broadway, Missoula, MT 59802.

17. The covenants, by-laws, and declarations shall bear the certification of the attorney who prepared or reviewed them, that such attorney is licensed to practice law in the State of Montana, and that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

18. The developer shall file Property-owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State prior to filing of the final plat.

19. The developer shall install a 1500 gallon cistern for use by the Frenchtown Rural Fire District. The location shall be approved by the Frenchtown Fire Department.

Ron Ewart said the request for the variance has not changed since the October 20, 1993 meeting.

Ann Mary Dussault said the variance request will be reconsidered in the final motion.

Nick Kaufman, a land use planner employed by WGM Group, representing Roger Hobbs, developer and the property owner, Eugene Johnson, requested that the testimony and comments from prior meetings be entered into the record.

Ann Mary Dussault said these are all a part of the official record.

Nick Kaufman reviewed the conditions one-by-one. He wondered how Condition #5 would be enforced? Relative to Condition #9, he wondered why the street couldn't remain a 54 foot private access? Why does it have to be changed from have public access if it will only serve one lot? He said of 18 conditions, there are about five that have to be met before the plat can be filed. He said they have done 300 lot subdivisions where there were fewer conditions on the subdivision than this five lot subdivision plat. Regarding Condition #19, he said they sent a letter to the Frenchtown Fire District asking for their comments on this particular subdivision. Their letter of October 6, 1992 asked for a 10,000 gallon cistern for fire protection on this piece of property. A 10,000 gallon cistern is the size of a gas tanker. He said he met with Scott Waldron, Fire Chief, and discussed the size of the cistern. The Frenchtown Fire District is working with Missoula County through the Office of Community Development to develop rules and regulations in terms of how water supply will be provided in these rural subdivisions. The fire district and his office came to an agreement that a 1,500 gallon cistern would suffice; the developer will install this and the Frenchtown Fire District would plumb it in. However, the developer, Mr. Hobbs, feels he cannot live with this condition. If this were a standard condition which was part of a set of standard rules and regulations, this would be different. Will he be required to put in this cistern, but another development get a different requirement? He requested that the Frenchtown Fire District adopt a set of standard rules and regulations so that developers know what is expected. He said there has been a trend with rural fire districts to request unreasonable things. He said they just did a subdivision in Ravalli County that was a quarter of mile inside a privately maintained road with a 12% grade and one mile from a main road; the fire department asked for a lot in the subdivision for a fire station. This is an example where a fire district will ask for a whole bunch and negotiate back to something. He said the "attention getting thing" doesn't need to be done. They need to find out what they want and write that in a set of specific rules and regulations so the developers know what rules they are playing with. He requested that Condition #19 be deleted.

Scott Waldron, Frenchtown Fire District, explained that the district has not allowed any subdivision to be built in recent history without some kind of fire suppression. He gave several examples of developments which have gone in and the types of fire suppression installed. He explained they operate under the Uniform Fire Code; the Frenchtown Fire District is the jurisdiction having authority in this area. A 1,500 gallon cistern is a reasonable requirement and a reasonable cost. He said Mr. Hobbs is putting in another 10 home subdivision across the road from this subdivision. In this area, there are a lot of little subdivisions going in with no fire protection. All the subdivisions will impact the fire district. He said the fire district is prepared to go to whatever lengths necessary to make sure the subdivisions provide some fire suppression. The developers don't seem to be as concerned about fire protection and life safety as they are about the wildlife and everything else.

Barbara Evans asked Scott Waldron how the 1,500 gallon cistern was settled on and how many gallons do they take to a residential fire?

Scott Waldron explained that during discussions with Nick Kaufman and the Office of Community Development, it was decided that a 400 gallon quantity per home was reasonable. He said a 1,500 gallon tank will really hold 2,000 gallons; this is 400 gallons per home. He said the district has engines carry 500 gallons of water and can be at that location in four minutes. A water tender will be 10 minutes or more getting to a fire. If there is water on the scene, it makes it easier to deal with the issue. The cost of additional water tenders can be more than requiring subdivisions to put in fire suppression. The Uniform Fire Code requires a minimum of 1,000 gallons per minute, but it is unreasonable to expect this in this type of subdivision. He said the last fire they used about 2,800 gallons; it depends on the type of fire.

Barbara Evans asked how a decision is made whether the district wants a cistern versus a $50 contribution?

Scott Waldron said with the exception of one time, they have never taken a contribution. The Board felt that it was like a bribe. He said the only contribution they have received was from Westfield Center, an industrial center at the Wye. It was agreed that each business that went into this center would have to put in a water system depending upon what type of business it was.

Barbara Evans asked where the nearest supply of water was in relation to this particular subdivision?

Scott Waldron said it would be Spring Meadows subdivision, which is a mile and half away in distance. The fire district cannot lay hose for that distance. They can eliminate buying a $200,000 water tender if 2,000 is put in for every five or ten homes.

Barbara Evans said she didn't have a quarrel with the fact that people need fire protection or that the district needs to have its costs met. However, for years she has said she does not have a problem imposing these rules up front; the problem for her comes when rules are imposed after the process.

Scott Waldron said the fire districts are not asked up front, but after the process.

Barbara Evans said it was not in the rules when they came in.

Scott Waldron said they are trying to fix this now. The district was not even invited to the last meeting. He said he cannot fix the past, but can only try to fix the present and make sure there aren't problems created for the future. He said the Board agrees that they will not allow subdivisions to go in without the water available. This is a minimal cost compared to the overall subdivision; the cistern will cost approximately $1,500.

Ann Mary Dussault referred to Condition #5; she said it was understood that the restrictions would be included in the covenants.

Colleen Dowdall said it was her understanding that Conditions #5 and #6 were going to be a part of the agreement with the Governing Body and the developer. This would allow a means of enforcement through this agreement. These restrictions would also be stated on the plat. She said she was comfortable with these being in the covenants as long as it is explicitly known that the Commissioners are not going to enforce and are not a party to the covenants, but a party to a separate agreement.

Ann Mary Dussault said Conditions #5 and #6 would contain the body of the agreement referred to in Condition #4.

Colleen Dowdall explained that these three conditions at one time were a part of one paragraph which ended by stating that "this condition shall appear on the face of the final plat and in deed restrictions." This particular sentence was meant to apply to Conditions #4, #5 and #6.

Ann Mary Dussault said Conditions #4, #5, and #6 would be contained within the agreement to be developed and signed off by the Board of County Commissioners and the developer. She asked that Condition #9 be clarified.

Ron Ewart said the 54 foot access is shown on the plat as a 54 foot private access. He said it is the preference of the staff at OCD that this be called a public access so the street can be brought into the County as soon as it is brought up to County standards. It would have to be a public street in order for this to happen.

Horace Brown, County Surveyor, said 54 feet doesn't meet the requirements for a county road without the Commissioner's approval for the right-of-way. Whether it is a public or a private doesn't matter except on the right-of-way. The street itself can be private; the right-of-way can either be public or private, but when it becomes a county street, it has to become a public right-of-way.

Ron Ewart said the reason Condition #9 is worded as such is because it was his understanding when talking with other members of staff that they preferred to have a public access rather than a private access.

Horace Brown said it doesn't really matter whether it is public or private if the County doesn't maintain it. The right-of-way, if it is a public right-of-way, whether the County maintains it or not, can be used by the public as well as private. This is the only difference.

Barbara Evans said this is a private driveway to one lot.

Nick Kaufman explained that there are two driveways shown on the plat; there are two access points onto Highway 93. The first driveway runs parallel to Highway 93 and runs the length of the five lots and will be paved to 20 feet wide. The second easement, and the focus of Condition #9, runs from Highway 93, straight east to the remainder parcel, and is labeled a private access road. He said his only question was, why the OCD staff wanted to make this a public roadway? He said they have shown the road as a private easement on the plat because it serves one remainder parcel.

Horace Brown asked what the right-of-way was on the road?

Ron Ewart said it is 54 feet wide.

Ann Mary Dussault said there is a 54 foot right-of-way described as a private access.

Colleen Dowdall said the major difference between public and private is if it is made a public right-of-way, anyone can access the road; if it is a private right-of-way, only the property owners within the subdivision could use it to get to their lots. It doesn't matter for purposes of determining if it will be a County road later on.

Nick Kaufman said it is an easement, not a right-of-way.

Barbara Evans asked if there was a problem asking for a public road to a private piece of property?

Michael Sehestedt said they are everywhere. He said the only time it would make any difference to the County is if at some point the road is brought up to County standards and all the property owners but one who opposes

it, request the County to maintain it. The Commissioners must decide whether or not it is a risk they want to take.

Ann Mary Dussault asked if it wasn't also true that if in the event that the remainder parcel is developed, the County would require public access to that and would gain public access at this point? Having public access to that one parcel at this time is a mute point. She said the way to resolve the issue would be to delete Condition #9 in its entirety if the Board so chooses.

Nick Kaufman said the $50 contribution grew out of Missoula Rural Fire District who put the contributions toward hoses and couplings which was equitable to offset the cost of the apparatus to serve the lots. He commented that Scott Waldron was someone that a person could negotiate with; he didn't want his comments regarding the district to reflect that Mr. Waldron wouldn't negotiate. He said they recognized that the fire department has individual needs which are specific to the equipment, apparatus and man power they have at a certain time and it is the location, type and density of the subdivision; perhaps the fire district needs this flexibility. However, there should be a reasonable expectation of the rules and regulations. He said they received Mr. Waldron's letter after the review period ended and the subdivision was submitted to OCD. He said the issue here is what the Commissioners determine should be reasonable as a plat requirement.

Fern Hart asked Nick Kaufman for his estimate of the cost of the cistern.

Nick Kaufman said both he and Mr. Waldron had discussions with Missoula Concrete and Construction regarding the cost of the cistern. They indicated a cost of approximately $1,200-$1,500 if the fire district does the plumbing.

Fern Hart asked if in the event the 10-lot subdivision goes in across the street, will the fire district ask for two 1,500 gallon cisterns?

Scott Waldron said he asked for a cistern or cisterns equal to the exact gallonage per home as was requested for Red Hawk Acres. The developer of the 10-lot subdivision was requested to put in 400 gallons per home.

Ann Mary Dussault requested a motion to approve the summary plat of Red Hawk Acres subject to the conditions in the staff report submitted on this date with the following conditions segregated: Conditions #5 and #6 for the purposes of amendment; #9, and #19 for separate votes and discussion.

Barbara Evans moved and Fern Hart seconded the motion to approve the summary plat of Red Hawk Acres subject to the conditions in the staff report submitted on this date with the following conditions segregated: Conditions #5 and #6 for the purposes of amendment; #9, and #19 for separate votes and discussion. The motion carried on a vote of 3-0.

Barbara Evans moved and Fern Hart seconded the motion to adopt the amendments as follows:

5. **The agreement referred to in Condition #4 shall designate that** no more than one single family residential structure and structures accessory to residential and agricultural uses shall be constructed on either lot or on the remainder parcel.

6. Home occupation will be allowed as described in the agreement **referred to in Condition #4**, between the developer and the governing body.

The motion carried on a vote of 3-0.

Barbara Evans moved and Fern Hart seconded the motion to delete Condition #9. The motion carried on a vote of 3-0.

Fern Hart moved and Ann Mary Dussault seconded the motion to include Condition #19 as a condition of approval. The motion carried on a vote of 2-1 with Barbara Evans voting against the motion.

Barbara Evans said she concurred with the need to provide fire protection. She said in her mind, if it is in the written documents provided by the Planning staff, then that is being up front in the process. If during the process, conditions are added, this is not up front. She said for years, she has been an advocate of writing down the rules. She stated she cannot support something if the rules change in the middle of the game. She suggested that the rules and regulations be done quickly before another subdivision comes in.

Barbara Evans moved and Fern Hart seconded the motion approve the summary plat of Red Hawk Acres based on the findings of fact in the staff report and based on the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.

NOVEMBER 17, 1993 (CONT.)

2. All easements shall be shown on the face of the plat.

3. Areas with a slope of 25% or greater shall be declared a no-build/no excavation zone and shall be indicated on the plat as such. Prohibited from construction on such slopes shall be any structures or roads.

4. The developer shall enter into an agreement with the governing body that there shall be no further subdivisions of these properties; the 5 lots fronting Highway 93 shall remain 5.0 acres in size and the remainder parcel shall remain 50.7 acres in size. Under this circumstance, the subdivision qualifies for a waiver of parkland dedication. This condition is revocable only by mutual consent of the landowner and the governing body, and if the future subdivision can be found in substantial compliance with the Comprehensive Plan. Any further subdivisions would necessitate the formal subdivision review process. This condition shall be stated in the covenants, and it shall appear on the face of the final plat and in each instrument of conveyance.

5. The agreement referred to in Condition #4 shall designate that no more than one single family residential structure and structures accessory to residential and agricultural uses shall be constructed on either lot or on the remainder parcel.

6. Home occupation will be allowed as described in the agreement referred to in Condition #4 between the developer and the governing body.

7. A 1-foot no-access strip shall parallel the west property line of the 5 lots fronting Highway 93 except for the two access points that are shown on the submitted plat.

8. Grading, drainage, erosion control, sewer, water, street, and driveway plans shall be subject to approval of the County Surveyor.

9. The internal street which connects the driveways of the 5 lots along Highway 93 shall connect with both access points that are shown on the proposed plat; the internal street shall be paved to a 20-foot width, the location of the street shall be shown on the face of the final plat, and the street shall be approved by the County Surveyor.

10. The driveways shall have at least a 20-foot paved apron for a distance of at least 20 feet from the edge of the internal street. The unpaved portion of the driveway shall consist of a gravel surface which is well drained.

11. The driveway that serves the remainder parcel shall meet County driveway standards to provide for physical, although private, access. The width of the driveway shall be at least 20 feet, the grade shall not exceed 12%, the first 20 feet shall be paved from the internal street, and it shall be approved by the County Surveyor.

12. The face of the plat and each instrument of conveyance shall state the following: "The purchaser and/or owner of the lot or parcel understands and agrees that private road maintenance and snow removal shall be the obligation of the owner or property-owner's association and that the County of Missoula is in no way obligated until the roads are brought up to standards and accepted by the County of Missoula."

13. Approach permits for the two access points to Highway 93 shall granted from the State Department of Transportation.

14. The following shall appear on the face of the plat and in each instrument of conveyance, and shall run with the land: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owner to waive the right to protest a future RSID for the improvement of the internal street which accesses Highway 93 and serves the properties of Red Hawk Acres."

15. The covenants shall recommend that homeowners obtain a copy of "Living With Wildlife". This brochure is designed to develop a more peaceful coexistence between humans and wildlife. A copy may be obtained from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, or Rural Planning, 200 West Broadway, Missoula, MT 59802.

16. The covenants, by-laws, and declarations shall bear the certification of the attorney who prepared or reviewed them, that such attorney is licensed to practice law in the State of Montana, and that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

17. The developer shall file Property-owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State prior to filing of the final plat.

NOVEMBER 17, 1993 (CONT.)

18. The developer shall install a 1500 gallon cistern for use by the Frenchtown Rural Fire District. The location shall be approved by the Frenchtown Fire Department.

The motion carried on a vote of 3-0.

Barbara Evans moved and Fern Hart seconded the motion to grant the variance to Section 3-2 (7) (C) of the Missoula County Subdivision Regulations which state that local, rural streets must be paved to 24 feet, to pave to a 20 foot width, based on the following:

1) The internal street will serve the 5 lots and remainder parcel only.

2) The street parallels Highway 93 and the amount of paved surface should be kept low if possible.

3) The street must be approved by the Frenchtown Rural Fire District and the County Surveyor who may require the street be paved to 24 feet, in which case this variance request would be denied.

4) All owners of the lots or remainder shall waive the right to protest a future RSID for the improvement, or widening, of the street.

The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 2:25 p.m.

NOVEMBER 18, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Fern Hart was out of the office all day due to illness.

DAILY ADMINISTRATIVE MEETING

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

Budget Transfer

The Board of County Commissioners approved and signed the following Budget Transfer and adopted it as part of the FY'94 budget:

> No. 94-005, a request from the EDA Grant to transfer $35,000.00 from the Permanent Salaries and Fringe Benefits account to the Contracted Services account for the purpose of expanding the scope of services for Development Project Contractor from $50,000 to $85,000.

Noxious Weed Trust Agreement

Commissioner Dussault signed a Noxious Weed Trust Fund Project Grant Agreement between the Montana Department of Agriculture and Missoula County Weed District, for the purpose of purchasing a five-passenger 4-wheel drive sport/utility vehicle as well as a new computer. The Agreement was returned to Alan Knudsen, Pest Management Specialist at the Weed Department, for further signatures and handling.

Other items included:

> The Board of County Commissioners approved a request from the Seeley Lake SOS for $2,000 to help match a grant received from Plum Creek Timber for mental health services in the Seeley-Condon area.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

NOVEMBER 19, 1993

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

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

NOVEMBER 22, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Fern Hart was in Helena attending MACo Taxation and Finance Committee Meeting through noon on Tuesday, November 23rd.

Memorandum of Understanding

Commissioner Ann Mary Dussault signed a Memorandum of Understanding between Missoula County and Western Montana Mental Health at St. Patrick Hospital with the intent of collectively establishing a Mental Health Child and Adolescent Provider Task Force for the purpose of providing a forum for the providers to collect data, monitor, evaluate, discuss, and review child and adolescent mental health services in Wester Montana, as per the terms set forth, for the maximum amount of $17,856, effective October 25, 1993 until July, 1994. The Memorandum of Understanding was returned to Cindy Klette for further signatures and handling.

NOVEMBER 23, 1993

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Hart returned from Helena at noon.

Audit List

Commissioners Ann Mary Dussault and Barbara Evans signed the Audit List, for tax refunds only, dated November 22, 1993, pages 2-3, with a grand total of $38,021.38. The Audit List was returned to the Accounting Department.

Audit List

Commissioners Ann Mary Dussault and Fern Hart signed the Audit List, dated November 23, 1993, pages 2-39, with a grand total of $189,199.50. The Audit List was returned to the Accounting Department.

NOVEMBER 24, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Fern Hart took a day of vacation.

DAILY ADMINISTRATIVE MEETING

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

Budget Transfers

The Board of County Commissioners approved and signed the following Budget Transfers and adopted them as part of the FY'93 budget:

1) no. 94-003, a request from the Health Department to transfer $2,766.00 from various accounts -447100 to accounts -447400 (listed on the attachment to the Transfer in the Budget file), for the purpose of giving DHES Contract No. 330263, Federal Catalog No. 13.283 & 13.991 a separate activity number for audit purposes; and,

2) no. 94-004, a request from the Health Department to transfer $9,493.00 from various accounts -447201 (listed on the attachment to the Transfer in the Budget file) to various accounts -447200, for the purpose of separating the FY'93-94 Traffic Safety grant from the FY'94-95 Traffic Safety grant.

Professional Services Contracts

The Board of County Commissioners signed three Professional Services Contracts with Joy DeStefano, Claire Davis, and Margaret Baldwin, independent contractors, for the purpose of planning, acquiring supplies, instruction and clean-up for classes offered to the public by the Missoula Museum for the Arts, as per the terms set forth, for the period commencing October 1, 1993 through June 30, 1994, for compensation in the amount of $7.50/hour for co-teaching or $10.00/hour for regular single teacher class.

Agreement

Chair Ann Mary Dussault signed an Agreement between Missoula County and Unisys SURETY Service Support for the purpose of maintenance of the equipment listed in the Agreement. The Agreement was returned to Jim Dolezal in Data Processing for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present was Commissioner Barbara Evans.

BID AWARD: 140' X 100' ROOF STRUCTURE (FAIR)

Ann Mary Dussault explained from information received from Sam Yewusiak, Fair Manager, that the Missoula County Fair Grounds solicited bids for a metal structure building roof. The bids were opened and the Fair Board will now have to meet in order to decide on the winning bid. The next meeting scheduled for the Fair Board is December 20, 1993.

The staff recommended that the bid award (bid #9410-02) for the metal roof be postponed until December 22, 1993.

Linda Kiltz, Support Services, explained that two bids were received. The budgeted amount for the roof was approximately $100,000. The bids received were $122,000 and $132,000. The Fair Board will meet on December 20th to decide if they can afford to build at this cost.

Barbara Evans moved and Ann Mary Dussault seconded the motion to postpone action on the bid award for a 140' x 100' roof structure for the Missoula County Fair Grounds, until the Public Meeting on December 22nd. The motion carried on a vote of 2-0.

BID AWARD: CONSTRUCTION BIDS & BOND BIDS - RSID NO. 8454 (SANITARY SEWER MAIN EXTENSION TO SERVE BLOCK 1, MACLAY ADDITION) POSTPONED FROM 10/20/93

Ann Mary Dussault explained from information received from John DeVore, Administrative Officer, that bids for Maclay Addition Sewer were received and opened on Tuesday, October 12, 1993. Only one construction bid was received which was twice the project Engineer's estimate and exceeded the amount of the bond bid by $27,000. Based on information received from the residents, the Project Engineer is requesting bond bids be returned to L.S. Jensen & Sons. The Project Engineer will be working with the residents over the winter and make a decision whether the RSID can be reformulated with the goal of reducing construction cost. The bond bidder withdrew his bid because of the delay in the project.

The staff recommended the acceptance of the Project Engineer's recommendation.

Barbara Evans moved and Ann Mary Dussault seconded the motion to accept the Project Engineer's recommendation to not award the bid for RSID No. 8454 for sanitary sewer main extension to serve Block 1, Maclay Addition. The motion carried on a vote of 2-0.

BID AWARD: CONSTRUCTION BIDS AND BOND BIDS - RSID NO. 8456 (SEWER MAIN EXTENSION ALONG HENDRICKSON DRIVE)

The following bids were received for construction bids for RSID #8456 - Hendrickson Drive Sewer Construction:

Green Diamond Co.	$39,447.00
4-G Plumbing and Heating	$55,164.50
Western Materials	$67,204.00
Johnson Brothers Co.	$58,678.00
Cliff Fletcher Exc.	$54,960.00

The staff recommended that after reviewing the bids with the Engineer, that the bid be awarded to the low bidder, Green Diamond Co. in the amount of $39,447.00.

Jesse Sattley, RSID Coordinator, explained that this is a straight-forward bid. The low bidder, Green Diamond, is below the estimated amount for construction. Hendrickson Drive is located off Reserve Street.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bid for RSID No. 8456 for the sewer main extension along Hendrickson Drive to Green Diamond in the amount of $39,447.00, as the lowest and best bidder. The motion carried on a vote of 2-0.

The following bid was received for the sale of $75,000 of RSID Bonds for RSID #8456:

R.J. Rangitsch	6.5%

The staff recommended that the bid be awarded to the low bidder, R.J. Rangitsch at the net rate of 6.5%.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the sale of RSID Bonds for RSID #8456 for the sewer main extension along Hendrickson Drive to R.J. Rangitsch at the net rate of 6.5%. The motion carried on a vote of 2-0.

Jesse Sattley explained that the bond was for $75,000, but because the construction bid was lower than estimated, the bonds may be adjusted down with a savings of $10,000-15,000. The net rate will stay the same.

RESOLUTION OF INTENT TO ADOPT: MISSOULA NON-MOTORIZED TRANSPORTATION PLAN

The Board of County Commissioners signed Resolution No. 93-087 as follows:

A Resolution of Intent to Adopt the Missoula Non-Motorized Transportation Plan: Guidelines for creating a non-motorized travel network in the greater Missoula area as an amendment to the Missoula County Comprehensive Plan.

WHEREAS, 76-1-604 MCA authorizes the Board of County Commissioners to adopt and amend comprehensive plans; and,

WHEREAS, the Board of County Commissioners updated and amended this comprehensive plan for the county in 1975; and,

WHEREAS, the Board of County Commissioners updated and amended this comprehensive plan in 1990; and,

WHEREAS, the Missoula Non-Motorized Transportation Plan was drafted and received extensive public review including four public meetings on 1/28/92, 3/24/92, 5/6/92, 6/2/92, and three public hearings on 2/16/93, 3/24/93, and 9/13/93 respectively, all of which were duly advertised; and,

WHEREAS, a Plan revision was recommended by the Planning Board, the Board of County Commissioners, and the public; and,

WHEREAS, this revision constitutes clarifications of language, additions, deletions, and modifications of text;

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Missoula County hereby adopts this resolution of intent to adopt the Non-Motorized Transportation Plan: Guidelines for Creating a Non-Motorized Transportation Network in the Greater Missoula Area, as amended, a copy of which s available in the Missoula Office of Community Development.

BE IT FURTHER RESOLVED that: This Non-Motorized Transportation Plan is an Amendment to the Missoula Urban Comprehensive Plan. It is a policy document intended to provide the County and other agencies and districts with a coordinated guide for change over a long period of time. When making decisions based on the Plan, not all of the goals, policies, and proposals for action can be met to the same degree in every instance. Use of the Plan requires a balancing of its various components on a case-by-case basis, as well as a section of these goals, policies, and proposals most pertinent to the issue at hand.

The common theme of all the goals, policies, and proposals for action is acceptance of them as suitable approaches toward problem-solving and goal realization. Other valid approaches may exist and may at any time be used. Adoption of the Plan does not necessarily commit the County to immediately carry out each policy to the letter, but does put the County on record as having recognized the disability of the goals, policies, and proposals for action and the goals, policies, and proposals for action to the best of its ability given sufficient time and resources.

Ann Mary Dussault said this is a resolution of intent; and asked if this becomes effective at a certain point in time or will further action by this Board be necessary?

Sam Islam, Planner at the Office of Community Development, explained that Michael Sehestedt, Deputy County Attorney, asked him to prepare a resolution of intention and a resolution to adopt. One month after the resolution of intent is signed by the Commissioners, they will sign a resolution to adopt.

Barbara Evans asked if the plan contained the caveat that the County's ability to do projects is based on funding capabilities?

Ann Mary Dussault said it was her understanding that the plan was fairly specific about particular projects, deadlines and funding sources; the final product clearly stated that there is no pre-commitment to any particular projects from any source of funding. It is more of a guide to be used when analyzing a project because this becomes an amendment to the Comp Plan.

NOVEMBER 24, 1993 (CONT.)

Barbara Evans moved and Ann Mary Dussault seconded the motion to adopt the Resolution of Intent to Adopt the Missoula Non-Motorized Transportation Plan. The motion carried on a vote of 2-0.

HEARING: PROPOSED CHANGES TO AIR POLLUTION CONTROL REGULATIONS

Ken Anderson, Air Quality Specialist in the Environmental Health Office, explained that the US EPA requires areas not meeting air quality standards to submit a state implementation plan or SIP-essentially a local plan to bring the area into compliance with air quality standards. Required to be a part of the SIP is a section concerning Contingency Measures. These rules must be a part of the local program relations to become part of the SIP. The Contingency Measures will only become effective if the area violates the particulate standard or the carbon monoxide standard. If Missoula violates the Federal standard and are notified by the State and EPA that the violation has occurred, then it will be necessary to implement a contingency measure. This will be decided upon by an analysis of what caused the violation.

The regulation changes are those requested by the EPA and the State Air Quality Bureau to make the SIP technically complete. They deal with information requested with construction permits and a name change for the Air Pollution Control Advisory Council.

The staff recommended that the additions and changes to the regulations for Air Pollution Control Program be approved so that they can be enacted locally. The additions and changes to the regulations for the Air Pollution Control Program are on file at the City-County Health Department.

Barbara Evans asked if the amendments and changes are an absolute requirement by the Federal government which gives the Commissioners no latitude regarding them? She asked what items would drastically affect the public in Missoula County?

Ken Anderson said this is correct. He explained that the yellow portion of the packet delineates the contingency measures which are contingent upon a certain event occurring which is a violation of either a particulate standard or a carbon monoxide standard. If this were to happen, the Health Department would receive a notice from the EPA that states that one of the standards has been violated and would need to implement one of the contingency measures. The SIP is a plan to try to bring the Air Stagnation area into containment or within the air quality standards.

Ann Mary Dussault said if the Health Department was to put an air monitor on 9-Mile Road and the road dust particulate exceeded standards, would these regulations be called into effect?

Ken Anderson said they would not. For these regulations to be called into effect, the area would have to be way over a pollution alert for a 24 hour period, two different times. The Commissioners do not have a choice to adopt the regulations; the Health Department needs the regulations to be on the books this month. Due to the adoption by the Air Pollution Control Board as well as the State Board of Health, they have run out of time. Changes cannot be made. He went through the contingency plans and what could be done in a case of violation.

A discussion ensued concerning what would happen if the Board did not adopt the regulations at this time. It was concluded that City-County Health Department would be notified by the EPA and the State Air Quality Bureau that they were in violation of their time line.

Ken Anderson said they would probably threaten some sort of sanctions against Missoula County. If the matter was rescheduled and they showed the agencies that the Commissioners were attempting to hear this matter quickly, they may or may not be agreeable. He reviewed each contingency plan for each probable violation.

Ann Mary Dussault explained that the Commissioners have to adopt the regulations in order to comply with State and Federal Regulations. The Health Department needs to have these regulations in place. The regulations would in all probability have no practical effect; an extraordinary event would have to happen in order to implement the contingency plan. However, if in fact Missoula does exceed the standards, there are contingency plans to implement. The net effect would not significantly impact Missoula County residents. In order to be in compliance with the regulations, the Health Department must have these regulations in place. She asked if anything in the regulations in question would significantly impact the motorists or the woodburner?

Ken Anderson said no.

Barbara Evans asked if these regulations are adopted, would this add weight to the argument that woodstoves presently permitted, should be outlawed?

Ken Anderson explained that these are completely different subjects. This is required to be in the local program regulations just as a matter of EPA and Congressional action. The real culprit in the violations are woodstoves. The Health Department is proceeding with several programs to try to upgrade woodstoves.

Barbara Evans said she would vote for these changes, but with the caveat that this action does not mean she supported changing the requirements for wood stoves. This is a separate issue. This action should not imply that approved woodstoves should be changed.

Ann Mary Dussault said that on December 14th the Air Pollution Control Board will hold a hearing on a set of proposed regulatory changes that directly impact wood stoves and wood burning in this valley. Included in that is a proposal to ban the installation of any new wood burning devices, even pellet stoves, as well as proposals to require any new stoves meet more stringent levels of emission than the current regulations. These issues will be heard in December before the Air Pollution Control Board. Whatever they recommend will go to the State and then back to the Commissioners for a hearing.

Ann Mary Dussault moved and Barbara Evans seconded the motion to adopt the Resolution approving the amendments to the Missoula City-County Air Pollution Control Program Regulations and adoption of Subchapter 3. The motion carried on a vote of 2-0.

Ann Mary Dussault said the Commissioners will next hear the amendment which extends the High-Impact Zone to the El Mar Estates area in February. She asked that the Commissioners be briefed on the El Mar Estates proposal and the new proposed rule changes in legislative format when the Health Department meets with the Board of County Commissioners at their monthly meeting.

Resolution No. 93-088

The Board of County Commissioners signed Resolution No. 93-088, a resolution approving the amendments to the Missoula City-County Air Pollution Control Program regulations and adoption of subchapter 3.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER (LARSON)

Kathy Smith, Paralegal in the Attorney's Office, explained that Beverly Larson submitted a request for a family transfer exemption for the NE1/4 NW1/4 of Section 32, T13N, R15W. The parcel is a 40 acre parcel which Mrs. Larson proposes to transfer approximately 20 acres to her husband, Dave Larson.

The history of the parcel is as follows: the parcel was originally owned by Harry M. Bandy and was sold in its original condition to Steve Maas in 1991. Mr. Maas then quit claimed the property to Patricia Anne Maas in February, 1993. Ms. Maas sold the parcel to Beverly Larson in April, 1993.

According to the records kept by the Missoula County Surveyor's Office, the applicant has previously used the following exemptions to the Subdivision and Platting Act: a boundary relocation and retracement in April, 1992, and a boundary relocation in July 1993.

The hearing was opened to public comment.

Kathy Smith explained that the boundary relocations were done on a different property than the property in question; it is in the same area. The property in question has remained intact--it has just been passed along. She said she informed Eli & Associates that the hearing on this request would be at today's Public Meeting.

A discussion ensued relative to the history of the parcel and the owners of the parcel.

Ann Mary Dussault said from this record, she concluded that the intent of the request is to split the parcel to the applicant's husband for the purpose of sale. Is the request due to a dissolution of marriage?

Kathy Smith said this information was not provided.

Ann Mary Dussault stated if this request is not relative to a dissolution of marriage, then it is an intent to evade. She said she was comfortable with denying the request; the applicant can appeal the decision if they want. She said she was not willing to postpone action on this matter when people do not show up to testify.

Barbara Evans said rather than deny the request, she would rather table the decision until they bring in more information.

A discussion ensued relative to what the Commissioners wanted to do with the request--table it or deny it. A motion to table the request requires a majority vote to take it off the table. The question, if the request was due to a dissolution of marriage remained to be answered. Once the matter is tabled, it can only be reconsidered if

NOVEMBER 24, 1993 (CONT.)

the applicant brings in information sufficient to take it off the table. The burden is now on the applicant to request in writing that this matter be taken off the table for further consideration; the applicant will have to demonstrate good cause to the Board to do this. It was concluded that Kathy Smith should mail a letter to Eli and Associates informing them of the Commissioner's decision to table the matter due to the unanswered question, 'is this request due to a dissolution of marriage?'

Barbara Evans moved and Ann Mary Dussault seconded the motion to table the request by Beverly Larson for a family transfer exemption for the NE1/4 NW1/4 of Section 32, T13N, R15W. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 2:15 p.m.

NOVEMBER 25, 1993

The Missoula County Courthouse was closed in observance of the Thanksgiving Day holiday.

NOVEMBER 26, 1993

The Board of County Commissioners did not meet in regular session; Fern Hart and Barbara Evans were out of the office all day.

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

NOVEMBER 29, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Memorandum of Understanding

Commissioner Hart signed a Memorandum of Understanding between Western Montana Mental Health Center/St. Patrick Hospital and the Community Based Adult Mental Health and Chemical Dependency Plan, for the purpose of providing a forum for collective planing between the providers as set forth in the Memorandum, effective as of October 25, 1993 and to remain in effect among all the providers until July, 1994. The Memorandum was returned to Cindy Klette for further signatures and handling.

Other items included:

1) the Commissioners nominated four applicant's for the Regional Health Planning Board State to be submitted to the State as follows:

A) Ellen Leahy
B) Nancy Fitch
C) Minkie Medora
D) Michael Regnier

2) the Commissioners reappointed Garon C. Smith to the Health Board for a three-year term through December 31, 1996.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

NOVEMBER 30, 1993

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

Audit List

The Board of County Commissioners signed the Audit List, dated November 29, 1993, pages 2-29, with a grand total of $84,961.02. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-089

The Board of County Commissioners signed Resolution No. 93-089, a resolution accepting an easement from Walter E. Dodd, Ernest W. Johnson and Allen Weydahl for a public road and all other public purposes, located in a portion of the SW 1/4 of Section 17, T14N, R19W, P.M.M., Missoula County, (Butler Creek Road cul-de-sac).

Gravel Agreement

The Board of County Commissioners signed a Gravel Agreement between Missoula County and Paul and Rose Qualley, for gravel as required by the County that is removed from the Thisted Gravel Pit located in Section 7, T16N, R23W, PMM, Missoula County, as per the terms set forth, for the amount of $1 (ONE DOLLAR) per cubic yard, for the term of one year.

Professional Services Contract

The Board of County Commissioners signed a Professional Service Contract with Montana People's Action, independent contractor, for the purpose of conducting a needs assessment of Missoula Village West Trailer Park residents in preparation for relocation: A) Finalize and conduct inventory survey; and B) assist with relocation program planning, as per the terms set forth, for the period commencing November 24, 1993, through December 31, 1993, for compensation in the amount of $300.00. The Contract was returned to the Health Department for further signatures and handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Service Contract with Bob Martin, independent contractor, for the purpose of performing temperature soundings as needed on a daily basis using the equipment at the Department of State Lands site, as per the terms set forth, for the period commencing December 1, 1993 through March 4, 1994, for compensation in the amount of $22.00 per sounding performed.

Agreement

The Board of County Commissioners signed an Agreement to Remit unused Portion of Tax Increment Urban Renewal Monies to Missoula County Board of Commissioners, a public taxing body for the County-wide School Funds pursuant to Montana State law, to be released to the taxing jurisdiction in the total amount of $19,675.19 to the Missoula County Treasurer for the fiscal year 1994, as per the terms set forth, with payment from the City being $19,675.19 unless tax increment property tax collections become significantly delinquent. The Agreement was forwarded to Chuck Stearns in the City Clerk's Office for further signatures and handling.

Other items included:

a) the Commissioners signed a letter modifying and extending the contract between Missoula County and Bill Woessner of the Department of Geology at the University of Montana, to cover Phase II, Tasks 6 and 7 as identified in the scope of work dated September 18, 1992 and referenced as Attachment A to the existing contract. The effect of this modification is to extend the contract duration to October 31, 1994 and increase the contract value by $71,404 for a total of $164,429.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

DECEMBER 1, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract with Philip A. Zemke, an independent contractor, for the purpose of planning, acquiring supplies, instruction and clean-up for classes offered to the public by the Missoula Museum of the Arts, as per the terms set forth, for the period commencing January 1, 1993, through December 30, 1993, as required by class schedules, for compensation in the amount of $10.00/hour and $7.50/hour for co-teaching.

Contract

The Board of County Commissioners signed a Contract between Missoula County and the State of Montana Department of Commerce, for the purpose of providing funding for project activities approved by the 53rd Montana Legislature through House Bill 663 under the Montana Treasure State Endowment Program (TSEP) for Fiscal Years 1994 and 1995 for the Sunset West Community Water Project, as per the terms set forth, for an authorized amount up to $154,107 against the TSEP funding appropriated for the project by the 53rd Legislature, commencing November 1, 1993, and will terminate upon final project closeout by the Department. The Contract was returned to Cindy Wulfekuhle, Block Grants Coordinator, for further handling.

Easement

The Board of County Commissioners signed an Easement to Jack C. Lovell and Gerri L. Lovell for a 20 foot wide easement for the purpose of maintenance and repair of a private buried sewer line as per Exhibit A attached to the Easement. Said easement is perpetual and shall run with the land. The Easement was returned to Horace Brown, County Surveyor, for further handling.

Liability Insurance Waiver Request

The Commissioners approved and signed a letter from Hal Luttschwager, Risk Manager, to the United States Department of Agriculture regarding the Liability Insurance Waiver Request for the Condon Ball Field, Permit #1006-15, requesting a waiver of the insurance provision in favor of Missoula County's self-insurance.

Special Use Permit

Commissioner Dussault signed a Special Use Permit authorizing Missoula County to use or occupy National Forest system lands, to use subject to the conditions as set forth, on the Flathead National Forest, Swan Lake Ranger District. The permit covers approximately 5.0 acres and is described as: an area located directly north of the Condon Airfield and immediately east of Montana State Highway #83 in an existing cleared area in the SE 1/4, SW 1/4, Section 25, T21N, R17W as shown on the location map attached to and made part of the permit, and is issued for the purpose of constructing and maintaining a public park/playground facility (Condon ball field) on National Forest system lands, expiring at midnight on December 31, 2002, for an annual fee of $500.00. The Permit was returned to John DeVore, Administrative Officer, for further handling.

Other items included:

> The Commissioners signed a letter to John Rogers of the Economic Development Administration, approving strategies developed in response to EDA Sudden and Severe Economic Dislocation Program Strategy Grant.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:35 by Acting Chairman Barbara Evans. Also present was Commissioner Fern Hart.

PRESENTATION TO: DONATORS TO THE DARE PROGRAM

Sheriff Doug Chase explained that the 1993 Missoula D.A.R.E. (Drug Abuse Resistance Education) Program showed its appreciation to several Missoula area firms and organizations that have made significant

contributions to D.A.R.E. Missoula, as follows: Five-Valley Archery Club raised $6,100 for D.A.R.E. Missoula at a dinner and auction. Crimestoppers donated $5,000 for the program. Nine businesses and organizations combined efforts to paint a Mountain Line bus in D.A.R.E. colors. They are: Mountain Line, Rick's Auto Body, Economy Auto Body, Auto Color Paint and Supply, Sign Pro, Metalworks of Montana, Williams Equipment Montana, the Missoula Police Association, and the Missoula County Deputy Sheriff Association.

The money given to D.A.R.E. will help finance the local program this year. The D.A.R.E. Mountain Line bus provides a highly visible means to show kids that these sponsors do care for them. All of these people involved in supporting D.A.R.E. recognize the drug problem today's kids face. Their generosity and hard work demonstrate that this community truly does want a good future for its young.

Sheriff Doug Chase and Chief of Police Jim Oberhofer showed their appreciation to all of the participants by presenting them with a plaque and a photograph of the D.A.R.E. bus.

The Commissioners sent thanks to all of the people who participated in this effort as well.

At this time, Chair Ann Mary Dussault joined the meeting.

BID AWARD: SIX VEHICLES - POLICE PACKAGE (SHERIFF'S DEPT.)

Ann Mary Dussault explained from information received from Sheriff Doug Chase that on November 7, 1993, bids for six police package sedans were solicited. Bids were opened on November 23, 1993 at 10:00 a.m.; one bid was received. It was submitted by Karl Tyler Chevrolet of Missoula, for a total bid amount of $96,594.00. A possible of five trade-ins were identified at $5,436.00 each for a total trade-in value of $32,616.00. The alternate bid was $63,978.00. The exception to the bid was a dash mounted cigarette lighter.

The staff recommended that the bid from Karl Tyler Chevrolet be accepted in the amount of $69,414.00 with five trade-ins.

Don Morman said the dash mounted cigarette lighter was used to plug in the radar, but it was unavailable. They will have to put a bracket on the side.

Barbara Evans moved and Fern Hart seconded the motion to award the bid for six police package sedans to Karl Tyler Chevrolet of Missoula in the amount of $69,414.00. The motion carried on a vote of 3-0.

CONSIDERATION & ADOPTION OF: MISSOULA NON-MOTORIZED TRANSPORTATION PLAN

Ken Stoltz, Department of Administration and Finance at the University of Montana, said the City Council intends to adopt the Non-Motorized Transportation Plan this Monday at their public meeting. The Campus Development Committee of the University of Montana adopted the plan this morning.

Barbara Evans moved and Fern Hart seconded the motion to adopt the Missoula Non-Motorized Transportation Plan: Guidelines for creating a non-motorized travel network in the greater Missoula area as an amendment to the Missoula County Comprehensive Plan. The motion carried on a vote of 3-0.

Resolution No. 93-090

The Board of County Commissioners signed Resolution No. 93-090, a resolution adopting the Missoula Non-Motorized Transportation Plan: Guidelines for creating a non-motorized travel network in the greater Missoula area as an amendment to the Missoula County Comprehensive Plan.

Ann Mary Dussault thanked the committee for the work they had done. She said there is already discussions to amend the plan to include the Momont Park.

CONSIDERATION OF: SULLIVAN LOTS (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that Sullivan Lots is a proposed 4-lot single family residential subdivision on 19.84 acres with a 20-acre remainder parcel. The property is located on Big Flat Road in Section 7, Township 13 North, Range 20 West. The northeastern part of the subject parcel is characterized by level to gently rolling land (with slopes of approximately 5 per cent), that is lightly timbered. The balance of the property is a heavily timbered steep hillside with a slope of approximately 50 per cent. The building sites are to be located in the lower area, and there are no plans by the developer to excavate or build upon the steep hillsides. The lots will have individual water and sewer. There will be two shared accesses on to Big Flat Road to serve the 4 lots. The Wagon Wheel Trailer Court is located across the road from the subdivision, the access to which is shown on the proposed summary plat.

DECEMBER 1, 1993 (CONT.)

The Missoula County Comprehensive Plan Designation for this area is "rural low density" which recommends a density of 1 dwelling per 10 acres. This designation provides less impact than higher densities, where environmental protection is needed for fragile areas. Where possible, clustering of dwelling units is encouraged to maintain undisturbed open land.

The zoning for the area is CA-3, which allows a maximum residential density of 1 dwelling per 5 acres. The over all density is 1 unit per 4.96 acres; two of the lots are 5 acres in size, one is 2.5 acres, and the fourth is 7.34 acres. The intent of the CA-3 district is to provide for low density residential development of a rural character and for the environmental protection of areas that are fragile due to physiographic conditions. Planned variations are encouraged in this district.

Within CA-3 zoning districts, the lot width must be a minimum of one-third the length of the lot. Given the size and shape of this parent parcel, staff cannot recommend approval of any lot that would be required to apply for a variance from the Board of Adjustment because the lot is not is compliance with the County zoning. There is no administrative process for staff or the Board of County Commissioners to grant a zoning variance for this condition.

The Community Development staff recommended that the summary plat of Sullivan Lots be approved, subject to compliance with the following conditions:

1. Lot 4 shall be redesigned so that the average lot width is a minimum of one third (1/3) of its average depth.

2. The area of land on the hillside that exceeds 25% slope, to include land on the remainder parcel, shall be declared a no-build/ no-excavation zone and shall be labeled on the plat as such. Specifically, this includes all of the land on the parent parcel above the 3100-foot contour, which shall be shown on the summary plat and labeled "toe of slope".

3. The subdivider shall pay into the County park fund cash-in-lieu of land dedication in the amount required by the County Assessor.

4. A 54-foot access and public utility easement shall be granted between Lots 2 and 3 to serve the remainder, and this easement shall not enter the no build/ no excavation zone.

5. The driveways shall be paved a minimum of 20 feet back from the roadway, the unpaved portion shall consist of a gravel surface which is well drained, and any driveways over 150 feet in length shall be subject to approval of the Missoula Rural Fire District.

6. A $50 fee per lot shall be paid to the Missoula Rural Fire District toward the purchase of a large diameter fire hose.

7. The following shall appear on the face of the plat and in each instrument of conveyance: "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a Rural Special Improvement District for any improvements to Big Flat Road, and for the installation of public sewer and water service."

8. The developer shall give this letter to each of the first time purchasers of the four lots which states the following:

To reduce the likelihood of significant human/ wildlife conflicts, the Montana Department of Fish, Wildlife, & Parks recommends:

1) Pets, particularly dogs, should be restrained to reduce the problem of harassment of nearby wildlife.

2) Fruit trees such as apple and pear should not be planted in order to reduce damage of property by black bear and dear.

3) Bear-proof garbage containers or indoor (garage) storage of garbage would reduce nuisance bear problems.

4) Homeowners should be advised that deer, elk, cougar, black bear, skunks, etc. are resident in the area, that sanitation reduces problems, and that fencing of gardens is a must in avoiding problems with wildlife.

5) The Office of Community Development recommends that homeowners obtain a copy of "Living With Wildlife". This is a brochure designed to develop a more peaceful coexistence between humans and wildlife. A copy may be obtained from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, or Rural Planning, 200 West Broadway, Missoula, MT 59802."

Andy Fisher, Eli & Associates, stated they had no problem with the staff report or the conditions.

Barbara Evans moved and Fern Hart seconded the motion to approve Sullivan Lots Summary Plat based on the findings of fact in the staff report and subject to the conditions as follows:

1. Lot 4 shall be redesigned so that the average lot width is a minimum of one third (1/3) of its average depth.

2. The area of land on the hillside that exceeds 25% slope, to include land on the remainder parcel, shall be declared a no-build/ no-excavation zone and shall be labeled on the plat as such. Specifically, this includes all of the land on the parent parcel above the 3100-foot contour, which shall be shown on the summary plat and labeled "toe of slope".

3. The subdivider shall pay into the County park fund cash-in-lieu of land dedication in the amount required by the County Assessor.

4. A 54-foot access and public utility easement shall be granted between Lots 2 and 3 to serve the remainder, and this easement shall not enter the no build/ no excavation zone.

5. The driveways shall be paved a minimum of 20 feet back from the roadway, the unpaved portion shall consist of a gravel surface which is well drained, and any driveways over 150 feet in length shall be subject to approval of the Missoula Rural Fire District.

6. A $50 fee per lot shall be paid to the Missoula Rural Fire District toward the purchase of a large diameter fire hose.

7. The following shall appear on the face of the plat and in each instrument of conveyance: "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a Rural Special Improvement District for any improvements to Big Flat Road, and for the installation of public sewer and water service."

8. The developer shall give this letter to each of the first time purchasers of the four lots which states the following:

To reduce the likelihood of significant human/ wildlife conflicts, the Montana Department of Fish, Wildlife, & Parks recommends:

1) Pets, particularly dogs, should be restrained to reduce the problem of harassment of nearby wildlife.

2) Fruit trees such as apple and pear should not be planted in order to reduce damage of property by black bear and dear.

3) Bear-proof garbage containers or indoor (garage) storage of garbage would reduce nuisance bear problems.

4) Homeowners should be advised that deer, elk, cougar, black bear, skunks, etc. are resident in the area, that sanitation reduces problems, and that fencing of gardens is a must in avoiding problems with wildlife.

5) The Office of Community Development recommends that homeowners obtain a copy of "Living With Wildlife". This is a brochure designed to develop a more peaceful coexistence between humans and wildlife. A copy may be obtained from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, or Rural Planning, 200 West Broadway, Missoula, MT 59802."

The motion carried on a vote of 3-0.

CONSIDERATION OF: ORCHARD HOME COMPANY'S ADDITION NO. 6, LOT 69B

Ron Ewart, Planner at the Office of Community Development, explained that Orchard Home Company's Addition No. 6 Lot 69B-1 AND 69B-2 is a proposed 2-lot division of an existing 2.36-acre lot. The two lots to be created will be 1.18 acres in size each; the lot to the north will be recorded as Lot 69B-1 and the lot to the south will be recorded as Lot 69B-2. The subdivision is located on Humble Road about 300 feet south of North Avenue in the SW 1/4 of Section 26, Township 13 North, Range 20 West. The Bitterroot River and Maclay Bridge are located toward the west approximately 1/4 mile.

Humble Road has a pavement width of 24 feet on to which the lots will access. A house is currently under construction on proposed Lot 69B-2. The lots will be served by individual wells and septic systems. The property and the surrounding area is zoned CRR-1, which allows a maximum residential density of one dwelling unit per acre. The Missoula Urban Comprehensive Plan designates the area as "suburban residential", which recommends a density of up to two dwelling units per acre.

The Office of Community Development staff recommended that the summary plat of Orchard Home Company's Addition Mo. 6 Lots 69b-1 and 69b-2 be approved, subject to compliance with the following conditions:

1. All easements shall be shown on the face of the plat, to include an easement for the irrigation ditch that shall be granted subject to approval by the Missoula Ditch Company.

2. Both lots shall have one shared access with a 27 foot access and public utility easement on each side of the common property line, for a total of a 54-foot easement.

3. The access shall be paved a minimum of 20 feet back from Humble Road, the unpaved portion shall consist of a gravel surface that is well drained, and any driveways over 150 feet in length shall be subject to approval of the Missoula Rural Fire District.

4. The design and placement for the culvert(s) within the ditch shall be approved by the County Surveyor and the Missoula Rural Fire District.

5. To provide for future lot splits, the summary plat shall indicate a no-build easement(s) that will insure the integrity of required setbacks. The no-build easement(s) shall be subject to approval of the governing body.

6. A $50 fee per lot shall be paid to the Missoula Rural Fire District toward the purchase of a large diameter hose.

7. The following shall appear on the face of the plat and on each instrument of conveyance: "Acceptance of a deed to a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a Rural Special Improvement District for any improvements to Humble Road, including the installation of public sewer and water service."

John Kellogg, PCI, stated that they were in general agreement with the conditions as proposed by OCD; however, regarding Condition #1, he said in discussions with Ray Tipp of the Missoula Irrigation District, he indicated that there may not be a need for an easement for the ditch since the ditch company may not require an easement.

Ann Mary Dussault said this condition can be satisfied by producing a letter from the ditch company which stated that no easement would be required.

John Kellogg referred to Condition #2 and said that the developer wanted to possibly adjust the design of the road easement; it may shift a little to the north.

Michael Sehestedt, Deputy County Attorney, suggested that the language be changed to say, "Both lots shall have one shared access with a public access and public utility easement on the common property line, for total of a 54 foot easement." As long as the 54 foot easement hits the common property line, they can move it any way they want to.

John Kellogg spoke regarding Condition #4. He said an access permit has already been acquired from the Surveyor's Office and two 30 foot culverts to cross the irrigation ditch have been installed. He wondered why Rural Fire would be included? The culvert was already approved by the County Surveyor's Office, and has been constructed. He wondered what the Rural Fire District could add? The entrance would remain at the same place, but the street would possibly turn once it entered.

Ron Ewart explained that the condition was to make sure the structure of the culvert is strong enough to withhold the weight of the fire equipment. Also, this is being added to the new regulations.

Horace Brown explained that a cover over the culvert would carry the weight. If it has been approved, it should stand anything the Fire District would put on it.

Fern Hart wondered what was involved when there is a ditch between a property and a road? If the owners wish to develop the property along the ditch, are the owners responsible to put in the culvert?

John Kellogg explained said the developers have done this according to a permit issued by the Surveyor's Office. His concern was that the culvert was installed with the requirements at the time the developer was developing the lot as a single ownership; now the Fire District may come in with something else that may not necessarily coincide with what the County Surveyor required previously.

He referred to Condition #5 which dealt with anticipating future lot splits. He said they agree with the concept, but the difficulty is that the needs 30 years from now may be different than today's. It is difficult to determine what would be the most efficient use of the lots that far in advance. He said they have planned for the access road into the middle of the property, but in placing a no-build easement across the lot at some point now seems to be a little difficult. He wondered if it would be feasible to follow the lot configuration set out today, thirty

years down the road. If adequate access is planned for, then the lot size and arrangement may be able to follow at some future date.

Jerry Pew, developer, explained that he and his wife moved into Missoula due to his wife's sickness. He said they acquired the access permit. The culvert will have pavement over the top of it; 10-14 yards of concrete have gone over the culverts and have not moved in size or shape. He stated they totally agree with the need for sewering the entire Missoula valley. This should have been done a long time ago. There is a great need to plan for future; future generations will need the good water Missoula has now.

Barbara Evans asked that Condition #5 be clarified.

John Kellogg stated that they had problems with the concept of a no-build easement. He said the condition is in anticipation of the future when a road goes through. The size of the lots permitted under the zoning at the time will determine where the lot boundaries go and how well the two adjacent lot owners work together. He said the wording in the latest report is the most agreeable, but they would rather not be required to do it.

Barbara Evans referred to the wording in the Country Crest subdivision language; she requested that Ron Ewart review the language contained in the conditions of approval for the purpose of comparing the two to see which had the best language.

Ann Mary Dussault asked that Condition #4 be clarified. She wondered if the requirement that Rural Fire approve the design and placement of culverts was in the new subdivision regulations?

Ron Ewart said it was. He said it would be agreeable to OCD to delete "and the Missoula Rural Fire District" from Condition #4 since it was previously approved by the County Surveyor and the fact that the culverts are already in place. However, in the future, they may need to obtain approval from the Fire District.

Ann Mary Dussault said if it has been standard practice in the past to require Missoula Fire District to look at it, then she would be willing to leave it in. But if this is a new condition that will be included once the new subdivision regulations are adopted, then she is willing to exclude it. She stated she was not willing to exclude it simply because the culvert is already there.

Ron Ewart said this is not a condition used in the past. It is something in the proposed regulations.

Barbara Evans requested that the staff report, in the future, contain which conditions are by regulation and which conditions staff proposed.

Barbara Evans asked for clarification on Condition #2 which referred to the 54 foot easement.

Ann Mary Dussault clarified the question: does the inclusion of "each side of" make any difference, or should "each side of" be deleted?

Michael Sehestedt recommended that this should be deleted, leaving "on the common property line".

Fern Hart moved and Barbara Evans seconded the motion to approve the Summary Plat of Orchard Homes Company's Addition No. 6, Lot 69B-1 and 69B-2 based on the findings of fact in the staff report and subject to the following conditions:

1. All easements shall be shown on the face of the plat, to include an easement for the irrigation ditch that shall be granted subject to approval by the Missoula Ditch Company.

2. Both lots shall have one shared access public access and public utility easement on each side of the common property line, for a total of a 54-foot easement.

3. The access shall be paved a minimum of 20 feet back from Humble Road, the unpaved portion shall consist of a gravel surface that is well drained, and any driveways over 150 feet in length shall be subject to approval of the Missoula Rural Fire District.

4. The design and placement for the culvert(s) within the ditch shall be approved by the County Surveyor.

5. To provide for future lot splits, the summary plat shall indicate a no-build easement(s) that will insure the integrity of required setbacks. The no-build easement(s) shall be subject to approval of the governing body.

6. A $50 fee per lot shall be paid to the Missoula Rural Fire District toward the purchase of a large diameter hose.

7. The following shall appear on the face of the plat and on each instrument of conveyance: "Acceptance of a deed to a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a Rural Special Improvement District for any improvements to Humble Road, including the installation of public sewer and water service."

The motion carried on a vote of 3-0.

HEARING: INTENT TO CREATE RSID NO. 8453 (CONSTRUCTION OF SEWER IMPROVEMENTS FOR PORTION OF LOWER MILLER CREEK/LINDA VISTA AREA)

John DeVore, Administrative Officer, explained that in September of 1992, the Department of Health and Environmental Health and Environmental Sciences issued an Administrative Order to the Board of Missoula County Commissioners and the Missoula City/County Board of Health seeking corrective action relative to groundwater contamination in the Linda Vista Subdivision area of Missoula County. This Administrative Order required the development of a master plan by Missoula County to correct the situation. This plan was developed by the Missoula City/County Health Department and recommended that the Missoula Board of County Commissioners undertake certain steps before November 27, 1994. One of these steps was to create an RSID to finance the construction of a sewer system to serve the area identified in the master plan. RSID No. 8453 is intended to serve this purpose.

A public hearing was held on October 27, 1993, but the notification process failed to inform five (5) property owners of the hearing date. It was determined by the County Attorney's Office that another hearing was necessary by law to allow those individuals not notified, the proper right to protest the creation of RSID No. 8453. This hearing today now complies with the MCA statute for those individuals as well as allowing for previous protests to be re-heard.

During the protest period ending November 29, 1993 for this hearing, five letters of protest were received, but this does not mean the five letters were received from the five property owners who were not informed of the first RSID hearing date.

The staff recommended the creation of RSID No. 8453.

The hearing was opened to public comment.

John Zimorino, resident of the Linda Vista area, asked how the bidding process works? When are the bids let? Who gets to bid? What happens if a person refuses to sign the City's petition to annex? He stated his taxes went up nearly $400 this year. With the road SID and the sewer SID included, he will pay $107 more a month in his mortgage payment. Many people will not be able to afford this. This is forcing several people to move out of their homes. They cannot receive market value for their homes because they have two SID's. He wondered when this would end and if anyone planned to help the residents? He said he realized this was a mandate from the State; but would the residents receive relief from the State? He said he talked with Howard Toole, their State Representative for the area, who indicated he would try to get some money from some fund; he hadn't heard back from him. The two $100,000 grants are a drop in the bucket. He wondered when the construction would start and end?

Gale Albert, resident of Linda Vista, asked what the $2 million would pay for? Does this include the main lines? How did the lines the Twite Family Partnership put in go from private to public ownership? What type of rebate will there be to the Twite Family Partnership? Will the new developments be included in the RSID and what is their contribution? Why aren't some of the old developments included in the RSID? He wondered if there was money coming from the additional buildings to service the principal balance of the RSID fund? If there is a rebate on the main lines, will the developer receive a 100% rebate or are they paying the same share? Would this be a legal means for voiding bidding of services or contracting? Mr. Twite did not go through any type of bidding procedure but did it as a private individual and then handed it over to the public. He said his taxes went up 25% this year. If his property had been annexed, they would have gone up more. Costs need to be shared equitably by everyone who takes part in development and should include future development.

Blaine Belcher, 5904 Helena Drive, spoke in opposition of the RSID and the request for annexation contracts. He wondered what the two issues had to do with one another? He spoke in opposition to the way the County made an agreement to rebate the developer who put in the lateral line. He said he was opposed to the way this project has been "piece-mealed" together. He suggested that the Board look into some outside auditing to watchdog the proceedings. He spoke about the costs involved and wondered why they were so high--the numbers do not add up. He wondered why it would cost less to put in a road with curbs and sidewalks versus a sewer. The sewer line runs parallel to this street; wouldn't it be cheaper to put in a 10 inch plastic pipe than to build a road? He said it was bizarre that the County entered into an agreement with a private contractor; it was never let to bid. He suggested that before the process goes further, the County should check to see why it costs

so much. He stated he has lost all faith in the system. The taxes are crazy. In today's economy, people are not left with alternatives for affordable housing.

Ann Mary Dussault asked that the questions relative to the bidding process, the costs and the auditing procedures be addressed.

John DeVore explained that three years ago, the County had discussions relative to construction of an interceptor to serve the Linda Vista area. At this time, the Twite Family Partnership was planning the next phases of their development. The phases had been sewered before through a community sewer system which drained into holding tanks; the affluent was pumped over the hill to the south of the development, into drainfields. The decision at this time was either to continue this type of a system or construct an interceptor to serve the area. The Twite Family Partnership approached Missoula County to discuss what was possible for the construction of an interceptor to serve the area. They proposed to construct something that would exceed the needs of their development, but be sized to not only serve the existing homes, but also future development. The creation of an RSID was proposed to construct the sewer line which was prior to the involvement of the State and prior to the issuance of the administrative order and the information on the ground water in the area. They followed standard practice at that time by meeting with the homeowners, and a survey was conducted of all existing residents which asked if the homeowner would support an RSID to construct an interceptor to serve the area with a cost per homeowner of $1,200. The second part of the survey asked if the homeowner would prefer this be constructed through the private sector for a cost of $1,500 per homeowner. This took place at the beginning of the construction boom. This part of the proposal talked about a utility agreement where the private sector would take on the capital costs, construct the facility and recoup their investment over time. There were at least two meetings in the Linda Vista area about this project, as well as the survey. The overwhelming majority of the residents that responded to the survey said that they would prefer to have the private sector build it rather than an RSID if it meant that they could connect to it in the future. The option chosen at this time was to use a public/private partnership to construct a facility that could serve current and future properties; the size would serve approximately 800 households. He said they went back to the residents and proposed the option of an RSID with public bidding process, etc., or construct it within the private sector; the overwhelming majority of the residents chose the private sector.

He explained that in the creation of this RSID, they followed public, but current practices; the bidding process includes the posting of a legal advertisement in the newspaper of general circulation; posting of plans and specifications with building exchanges so that all contractors in the area are notified as well as regional contractors. He said the bidding process will probably occur in March or April of 1994. The advertising period generally takes 30 days. In terms of who gets the bids, contractors can request to bid on a project. He said they are trying to time the bids to go out at the beginning of the construction season in order to receive a favorable cost. The cost of public sewer has bounced all over due to the size and timing of the project. He said all the County can do in the creation of an RSID is fix the total cost and hope that the bids come in less.

He said that construction is projected to start sometime in May and will probably last a period of 6 months. The cost of the RSID will construct all of the interior collector systems to serve the existing Linda Vista area. It also includes the $1,500 connection fee through the Twite Family Partnership to reimburse for the interceptor; $350 in sewer development fees to the City of Missoula; $75 tap fee to the City of Missoula; and engineering fees and cost of issuance to the State of Montana. The County will use State of Montana Revolving Loan Funds at 4% interest to finance the project. He explained that the petition to annex is a City policy. He said in the case of the interceptor, even though it was built by the private sector, it was built to City specifications, and inspected by the City of Missoula. At completion, the City will accept ownership of the interceptor. The project engineers designed the project; the design will be reviewed by the State of Montana Water Quality Bureau and the City of Missoula. The City of Missoula will not only review the specifications, but will monitor construction; at the end, they will accept ownership. The question relative to refusal to sign the petition to annex is not a problem for the majority of residents; there are approximately 59(+-) homes that are required to connect. This project provides sewer to the property line; the homeowner provides sewer to their home. He said he has mentioned on several occasions to the City that this is a controversial project and gaining signatures on the contract for sewer may not be easy to get. He said he has not gotten a straight-forward response on how the City wants to deal with this. This is an issue which has yet to be resolved.
He explained that by statute, the County is required to be audited annually by an independent CPA firm and that audit is available to the public upon request.

Michael Sehestedt, Deputy County Attorney, explained that a contractor is required to have a public contractor's license to bid on public projects. He said the other restriction is a 3% in-state bidders preference which would give some advantage to local bidders over out-of-state bidders.

Doris Sherek, resident of lower Miller Creek Road, asked why the areas on the map such as the golf course and the retriever club were excluded?

John DeVore explained that properties in the project map which are shaded along Linda Vista Boulevard are not included in the project because they are already connected to sewer. The properties along Linda Vista Boulevard are not going to be served by the interior collector system, but are going to be served directly by the sewer main in Linda Vista Boulevard. Those properties cannot have a gravity system. The design uses a community STEP system; there will be large septic tanks in the public right-of-way. The homes will actually be served by gravity to the large tanks in the public right-of-way and pumped into the interceptor. Homes adjacent to the interceptor will have individual STEP tanks on-sight; there will be no public financing available to these homeowners. The Retriever Club was excluded because the property was not being used in a fashion which would conclude it would be developed. The use is basically open space where dogs are trained. With this current use, they wouldn't derive benefit from the RSID. This would not exclude them having participation at some future date if they were to construct something to pay the costs associated on a per unit basis to connect. The golf course is included in the project.

Blaine Belcher asked that the Commissioners consider offering the residents the same costs for the same service. He referred to a letter written by the County relative to the survey conducted three years ago. He said 26 residents supported the RSID for the mainline and 11 supported the private financing. He said in actuality, 2-1 supported the RSID at that time.

John DeVore explained that the letter was a summary of the survey. Of the 250 polled, 65 replies were received. Of those, 39 did not support the interceptor or did not support the creation of an RSID. An RSID was supported by 26 of those respondents; 11 of these also supported private financing. The majority did not support an interceptor or an RSID; 26 did support the creation of an RSID--of those 26, 11 also would support private financing of the sewer.

There being no further testimony, the hearing was closed to public comment.

Barbara Evans stated that Missoula has a single source aquifer which means that if it becomes polluted, everyone will drink polluted water. The County has been required by the State to do this in order to fix this particular area. She said a long time ago, there was federal money available three different times at a cost of $2,500-$3,000 per property. The folks three times said "no". The residents at this time knew that this was likely to be a requirement. The County has worked with the City to delay annexation of this area. The County has obtained through the community block grant program, $100,000 for the residents. The Water Quality Bureau has also allocated $100,000 to the residents, and the County did not adjust the millage to cause a windfall to the County. To say the County doesn't care and that the County hasn't done anything for the residents, is not true. The County has also been working with the banks and the lending institutions to find ways to provide low interest loans. The efforts of the County have gone unrecognized by the residents.

Barbara Evans moved and Fern Hart seconded the motion to create RSID No. 8453 to finance the construction of a sewer connection system to serve the Linda Vista area of Missoula County based on the fact that it is the Commissioner's civic responsibility to protect the water system for the whole area. The motion carried on a vote of 3-0.

Ann Mary Dussault asked if Mr. Zimorino understood the bidding process and if he understood what would happen if a person did not choose to sign the annexation petition? She suggested that Mr. Zimorino ask the City Attorney about this. She stated that she was not frustrated with people who have just joined the process, but was frustrated that Mr. Zimorino continued to ask the same questions over and over; Mr. Zimorino apparently chooses not to listen. County personnel has explained time after time the bidding process, the petition of annexation, and that the County has done as much as possible to delay annexation of this area. She stated she is more than willing to walk through these issues with people who have never heard it, but Mr. Zimorino keeps asking the same questions over and over again.

Mr. Zimorino indicated that he didn't understand the issue relative to the City annexation petition.

Michael Sehestedt explained he needed to talk to the City on this particular issue. He suggested Jim Nugent, City Attorney; the City Engineer, Joe Aldergarie; or the Mayor. These people should be able to talk with Mr. Zimorino about City policy with regard to signing/not signing the petition for annexation. They may also be able to explain the City's commitment to the County in terms of annexation in this particular area.

John Zimorino stated that he did not hear the residents say the Commissioners weren't working for them.

Barbara Evans stated that the questions Mr. Zimorino asked were relative to questioning what the County was going to do for the residents. The County has tried to do everything they could to help the residents; some of the residents just do not recognize that the County has done these things.

There being no further business to come before the Board, the Commissioners were in recess at 2:55 p.m.

DECEMBER 2, 1993

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Ann Mary Dussault left at noon for Des Moines, Iowa to attend a Health Care Reform Conference.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-091

The Board of County Commissioners signed Resolution No. 93-091, a resolution creating Rural Special Improvement District No. 8453 for the purpose of construction of sewer improvements for a portion of Southwest Missoula Area - Lower Miller Creek/Linda Vista Area, Missoula County, as per the items set forth.

Termination of Agreement

The Board of County Commissioners signed a Termination of Agreement between Missoula County and C. Loren Henry, regarding the Agreement to Sell and Purchase the property described as Lot 6, 39th Street, Lot 6, Block 3, Mountain Shadows #1, Missoula County, as the Agreement was contingent on the Purchaser obtaining rezoning and he is unwilling to spend the $750 necessary for this after talking to several people in the neighborhood; therefore, the Agreement is canceled and terminated and the earnest money in the amount of $500 will be returned to Mr. Henry within 5 business days from December 2, 1993. The Agreement was returned to Scott Hollenbeck at Properties 2000 for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

DECEMBER 3, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Ann Mary Dussault was in Des Moines, Iowa at a Health Care Reform in Rural America Conference through Sunday, December 5th.

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

DECEMBER 6, 1993

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

Monthly Report

Chair Dussault examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending November 29, 1993.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-092

The Board of County Commissioners signed Resolution No. 93-092, a resolution to accept an easement from Penelope F. Cofrin for public road and all other public purposes, located in a portion of the W 1/2 of Lot 109, Orchard Home Company's Addition No. 6, lying in the NW 1/4 of Section 35, Township 13 North, Range 20 West, P.M.M., Missoula County, for the Sundown Road cul-de-sac.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JOINT HEARING WITH THE CITY COUNCIL

The regular meeting of the Missoula City Council was called to order by Mayor Daniel Kemmis at 7:30 P.M. in the Council Chambers, 435 Ryman Street. Present were Alderwomen Cregg, Gingerelli, Shaffer and

Shea, and Aldermen Harrison, Hermes, Horton, Laughlin, Reidy and Sampson. Also present were Chief Administrative Officer Walsh, City Attorney Nugent, Finance Officer/City Clerk Stearns, and Missoula County Commissioners Dussault, Evans, and Hart. Alderwoman Rosenleaf and Alderman Potts were absent.

APPROVAL OF MINUTES

The minutes of the regular meeting of November 22, 1993, were approved as submitted.

Mayor Kemmis said, let me just talk to you a little bit about the order of business here this evening and we'll have some motions to rearrange it and it may be rearranged further, but let me tell you what's happening, so far, and then if the Council wants to make some further changes, they can. We have two hearings tonight that are joint hearings between the Board of County Commissioners and the City Council. And those are the first two hearings that you will see under the public hearing agenda. That is the public hearing on the Missoula Urban Comprehensive Plan, as it relates to Fort Missoula, and on the Special Historic District Overlay Zone. So we will be hearing those two items as joint public hearings and our intention is to do that at the outset of the meeting here this evening before we go to items for final consideration or to public comments from citizens. That will take a suspension of the rules in order to accomplish that. That will leave us then with three other public hearings. Now the way that we have set the public hearings, at this point, is..., and you have to understand that it's simply a conundrum about how to set..., in what order to set public hearings. Cause when you have contentious public hearings, then somebody has to sit through somebody else's public hearing. And there's simply no getting around that. What we generally try to do is to guess which are going to be the more contentious, and to set the shorter ones, as we think they will, earlier rather than later. I realize that there are a lot of people who think that we should be having all of the public hearings, related to Fort Missoula, all at one time. The difficulty with that is that the one hearing on the Divot Development proposal is not a joint public hearing, and so if we want to have that in conjunction with the others, we still need to be able to excuse the Board of County Commissioners. The other difficulty with having that one at or near the time of the two other Fort Missoula public hearings is that we then would be asking other people to sit through what we think will be a fairly lengthy public hearing. Let me just get a little bit of a sense here because I expect that the Council may want to rearrange the agenda a little bit. How many people are here to testify on the Rattlesnake SID? Okay. My expectation is that hearing can be kept to half an hour, and no more than half an hour. How many people are here to testify on the Divot proposal? That hearing, I think that we would be lucky to keep it to an hour and so that's the consideration that we were working with in setting up this, is that we knew that there would be people here, especially from the Rattlesnake, and that we were trying to prevent them having to sit through a long public hearing. However, it is finally up to the Council what you want to do. What I would propose that we do right now is just go ahead and, with a suspension of the rules, move items 7 and 8, that is the two public hearings that are joint public hearings, to the beginning of the agenda, hold our joint public hearings, and then I'll ask for the Council's advice on how you want to proceed beyond that. In any event, we only have the two joint public hearings.

MOTION - Suspension of Rules

Alderman Sampson moved to suspend the rules to move items 7 and 8 to beginning of the agenda.

Upon a voice vote, the motion carried.

Mayor Kemmis said, now, Al, I think I need to ask you to move them to the front of the agenda.

Alderman Sampson said, I move we move items 7 and 8 to the top of the agenda.

MOTION - Move items 7 and 8 to the top of the agenda.

Upon a voice vote, the motion carried.

Mayor Kemmis said, with that then, we'll go into joint hearing with the Board of County Commissioners and I would like to introduce to everybody here the Missoula Board of County Commissioners. Most of you know them and we will..., since we have two public hearings here, we'll take turns sharing them..., and Ann Mary, if you'd..., go ahead. Ann Mary Dussault is the Chair of the Board of County Commissioners.

Public Hearing on the Fort Missoula Steering Committee having drafted an amendment to the Missoula Urban Comprehensive Plan. This amendment would review the 1973 Fort Missoula Guidelines for Development and be known as the 1993 Fort Missoula Plan. (PAZ)

County Commissioner Dussault opened the public hearing.

County Commissioner Dussault said, the first public hearing will be on the proposed amendment to the Missoula Urban Comprehensive Plan. And we will begin that hearing by asking for Doris Fischer to give a staff presentation, please.

Doris Fischer, Office of Community Development. The County Commissioners and the City Council are being asked to consider the 1993 Fort Missoula Plan as a proposed amendment to the Missoula Urban Comprehensive Plan. I'd like to emphasize that what you have before you tonight is a planned document prepared by a group of local citizens, with technical support provided by OCD. I commend the total effort by all involved in the work of the Fort Missoula Steering Committee, the group that put this plan together for the community's review and for your consideration. And I particularly would like to thank our two co-chairs of this Steering Committee, Ed Heilman and Steve Adler for their able leadership during these past three and a half months. The 1993 Fort Missoula planning area closely parallels the area covered in the 1973 Fort Missoula Plan. Some of the lands covered by the new draft plan fall within City jurisdiction, some within the County's. The draft plan document, since I know you've been receiving a volume of paper about the Fort Missoula projects lately, looks like this. I'll turn things over, at this point, briefly to Ron Ewart of OCD, who will use a few slides to take us visually through the Fort Missoula area.

Ron Ewart, Office of Community Development. First of all, our staff would like to thank everyone for coming here tonight. I'll show a few slides. First of all, I'll just sort of take you around the Fort a little bit and then I'll focus in on some of the historic aspects of the Fort and then later on this evening, when I do the subdivision portion of the staff report, I'll focus in on the Greens Development. This is a photograph taken from on top of McCauley's Butte, looking towards the east. In the middle ground is the Fort Missoula area. Off to the right hand side of the photograph, you can see the water tower at Fort Missoula. This is a photograph taken in front of the water tower looking back toward the west, over the Bitterroot River. And below, you can see the Sleven's Island area. From the water tower, looking more toward the north, toward the left hand side of the photograph is the old fort hospital and, further toward the right, you can see the two buildings with the red roof. Those are the old NCO quarters. And this photograph was taken more toward the northeast. Back in the far left hand side of the photograph, you can see Community Hospital, coming around toward the rear, toward the right, is Larchmont Golf Course, and on the right, toward the front, is the Missoula Country Club. Near the center of the photograph, you can see the quartermaster stables and to the rear of that, toward the north, is the old military jails. This is a photograph of South Avenue and Reserve Street. This is the old entrance to the Fort. A little bit further down south is the Fire Station. This is taken from South Avenue, looking toward the southeast, along Old Fort Road. On the left is Union Square Apartments and on the right is the Village Senior Living Center. This is a photograph of Dearborn. Old Fort Missoula Road veers to the right, because it doesn't continue on any more and Dearborn Avenue connects with Reserve Street at a 90 degree angle. Off to the right is Larchmont Golf Course. This is a picture of Old Fort..., excuse me, of Fort Missoula Road, looking toward the southwest. On the right is the Village Senior Living Complex and just beyond that is Community Hospital. This is sort of the entrance to the Fort Missoula proper. Off to the right there, there is a sign for the Bureau of Land Management. In the center of the photograph is the old fire station. So, we've seen quite a mixture of land uses here, from the fire station on South Avenue, the apartment buildings, the Senior Living Center, the hospital, and some quasi-public and public facilities. This is a view of Fort Missoula proper. The building there, in the rear, is known as Building Two. It used to be the Old Fort Headquarters. And this is a view of some of the buildings along that loop road. We have the Lolo National Forest works out at some of these buildings and off in the background are some of the buildings that are used to house military families. This is a view from a small look-out tower that's more toward the west end of the Fort. Where looking off towards the east you can see the water tower. And, right now we're looking at the quartermaster building. Right now, this is the Missoula Historical Museum. Behind it is a gazebo and behind the gazebo is a little piece of ground where people practice horticulture and grow flowers and things. This is a view of the old CCC Road. It's on South Avenue, approximately a half mile or three quarters of a mile west of South Avenue and Reserve Street. This is a view of Community Hospital, looking across the athletic fields. And these are more athletic fields, looking towards the row of quarters for military families. And here, we're on the old CC Road, looking across quite an expansive property. You can see the goal posts for the rugby field, in the center, and then off behind that is Community Hospital. This is a view from the CCC Road, looking toward McCauley's Butte. This is from the same position, looking toward South Avenue. As you can see, from the sign, this is land that was..., that is controlled by the University of Montana Foundation. And this is in McCauley's Butte, looking across the Western Materials sanding gravel operation. And this is from the same area looking east, along the Bitterroot River. You can see Sleven's Island and the water tower. These are some of the uses that are happening here as a result of the National Guard and the Army Reserves storage of their equipment. And this is an old..., an old supply building. Here we're looking across some land to a Fort Missoula proper. And this is an old building that was relocated at one time. This old building is known as the powder magazine; it's made of stone masonry, and this is where they kept their ammunitions. This is the old quartermaster building, which is now the Fort Missoula Historical Museum. This is the old graveyard, the Post Cemetery. Another view of the Post Cemetery. And this is a picture of one of the two officer's..., excuse me, NCO quarters that are planned to be restored. This is a picture of the quartermaster stables; it was built in 1910. Another view of the stables. These are the old military jails. And this is a foundation of an old building.

This concludes my..., this part of the series. Now I had just a couple more slides that I'll show a little later, when I come to the subdivision part of this separate part. And I'll turn it back over to Doris. Thank you.

Doris Fischer, said, thank you, Ron. The Missoula Consolidated Planning Board held a public hearing on the 1993 Fort Missoula Plan at its November 16th meeting. At that meeting, the Board unanimously recommended that the plan be adopted with a few changes, suggested by staff, the Fort Missoula Steering Committee, and Planning Board members. A December 2nd memo, from me, contained in your most recent packets, reflects all of these suggested refinements. Both I and the Fort Missoula Steering Committee would recommend your approval of the draft plan as amended by this December 2nd memo, in accordance with the guidance provided by the Planning Board. For some brief comments about the plan itself, I would like to call upon Bill Ballard, who has served as chairman of the planned write-up subcommittee of the Fort Missoula Steering Committee. That then will conclude our kind of combined staff and citizens' committee report. Bill?

Bill Ballard, 5120 Larch. I have a statement which I can read, which I think will, fairly briefly, give some..., the kind of notion that we need to give you. Before you, for consideration tonight, is a draft of the 1993 Fort Missoula Plan, produced by the efforts of a diverse group of citizens, in recognition of need for an update of a 1973 plan currently in place. Proposals for development, imminent changes of ownership, changing ideas of present and prospective land owners for uses of Fort Missoula land, and changes in the community have prompted reconsideration. The draft plan, approved last month by the Planning Board, is now presented to you for adoption. We found that the 1973 plan was based on a vision of the Fort area that is sound and requires little alteration. The 1993 draft plan does, nevertheless, constitute a revision. A few remarks will give some idea of the nature of the 1993 plan and how it differs from its predecessor. 1) The 1973 plan was a public agency plan. Developed by public agencies and focused on their needs and desires. It was assumed that the community good was being served by this approach. The 1993 revision is a community plan which seeks to place the community good as a standard to which both public and private parties need to adhere. This reflects changes in ownership, a more skeptical attitude toward public agencies, and some disenchantment with local governing bodies and public agencies, which are perceived at having failed to fulfill their commitment to the 1973 plan. 2) The community good is a standard formulated and applied in our adopted community plan. We sought to employ the same community perspective in making recommendations for the Fort area. The standard set for public and private action alike is expressed in five general goals, and it's on page 32, along with the stated policy, it's on page 31. Namely, that any development, which will change the character of the Fort Missoula area, will be acceptable only if it clearly meets all relevant general goals of the plan, to some degree, and does not detract significantly from any of the goals. In this way, a high standard is enunciated--one to be taken seriously. A stewardship obligation is implied, maintaining the historical, ecological and open space assets with improvements, restoration, and enhancements, as appropriate, but always subject to the policy. 3) This emphasis on stewardship of the distinctive assets is not a departure from the 1973 plan. The suggestive means of carrying out the emphasis, of implementing the goals, is different in ways that depict a community plan. Government and public agency actions are recognized as means, but active participation by a wide variety of groups, organizations, and interested parties is appealed to. Further, government and public agency action should have extensive public participation so as to constitute real community action. 4) The plan does not include a map of recommended land uses. It does not include a specific zoning proposal, although we do urge a Historical Overlay District, such as the one being proposed to you later this evening. The plan accommodates, in principle, a wider variety of uses than have so far been present, but subject to observing stated goals and policy. We do not encourage extensive land use changes, but we acknowledge there is room for changes and we urge creative thinking about the future, within the principles. The position is set out in general goal four, that's on page 32, again, to ensure that any new development and use or expansion of existing use meets the following conditions. It responds to significant community needs, it involves a site uniquely suited for meeting those needs and it respects a distinctiveness and harmonizes with the character of the Fort area. Thank you.

County Commissioner Dussault said, thank you, Bill. Does that conclude the report? We will now take public testimony on the proposed amendments to the plan. If you would like to testify, please come to the microphone, state your name, for the record. If it's an unusual name, would you please spell it and please also state your address. We would ask that you would keep your comments to under three minutes. Is there anyone who would like to testify in support of the proposed changes? Is there anyone who would like to testify in opposition to the proposed changes? Seeing no testimony, we assume that that indicates that a job well done has been done. We thank the Citizens Committee and the staff for this rather historical occasion and we will close the public hearing. Thank you.

County Commissioner Dussault closed the public hearing.

Zoning Hearing on referral to the Missoula Consolidated Planning Board to consider a city and County Special Historic District overlay zone for land contained within the Historic District nominated to the National Register of Historic Places. (PAZ)

Mayor Kemmis opened the public hearing.

DECEMBER 6, 1993 (CONT.)

Philip Maechling, Office of Community Development. This second item is a Historic District proposal for City and County zoning. You have a City and County zoning proposal because we have two jurisdictions involved in the Historic District area, those lands that are in the City, covered by the City Zoning District, and those lands in the County, covered by the County Zoning Resolution. The goal of a joint Historic District is to effect the same standards in the City and the County, relative to historic resources and to effect a clean transition to those lands that are in the County now that should later come into City jurisdiction. The request comes to you from the Missoula Consolidated Planning Board. The Missoula Consolidated Planning Board held a public hearing on November 17th at which it considered special Historic Districts for the City and the County and it unanimously recommended approval of Overlay District..., Special Overlay District for the City and a Special District, in Chapter 5, of the County Zoning Resolution. The staff's recommendation for approval contained three..., four conditions. And they were that the City and..., that the City Council and the Board of County Commissioners adopt the Fort Missoula Historic District, as the cultural resource has defined, including the contributing buildings and sites described in the nomination form and as identified by the US National Parks Service, National Register of Historic Places Inventory. Those elements and the boundaries are on the map behind Council member Cregg, and you can see it bounded in red. It includes elements that are marked and noted in your reports as contributing factors and it includes the cemetery, which you see up to the northwest of the map. Second condition was the reference to business and professional offices in the section on prohibited uses be replaced with Planned Unit Developments, medical uses, medically assisted housing and medical offices are still permitted. The third one was that references to health clubs and visitor/tourist support services, in the section on permitted uses, be removed and included as possible PUD uses. And the fourth one was that the Development Guidelines and Standards for Fort Missoula Historic District may be amended by the director of the Office of Community Development upon recommendation by the Historic Preservation Advisory Commission, the Design Review Board, and the County Commission as applicable, after an annual review. The Planning Board amended the staff's recommendation with the following two amendments. One was to add professional offices, as permitted uses, and the second one was that helicopter landing facilities could be allowed. The historic..., and I'll try to be brief..., the historic purpose has the intent of the following five statements. To reinforce the character of the historic Fort area and to protect its visual aspects; to improve the quality of growth and development; to protect the value of public and private investment which might otherwise be threatened by the undesirable consequences of poorly managed growth; to provide an objective basis for the decisions of a Design Review Board; and to provide a tool for designers and their clients to use in making preliminary design decisions. The purpose of the Historic District, and I quote from the document, "is to protect the building and grounds in the area for modification which would obscure or eradicate significant features of their historic character, to promote restoration, continued maintenance, and to protect the district from incompatible development." The proposed historic is the product of the work of the Steering Committee, the Fort Missoula Steering Committee, which prepared the Fort Missoula Plan that you just heard. A report on the property to be zoned is bounded, as I said, by that area. The district itself contains standards for application and standards for..., general standards and guidelines for development. And the staff recommends approval of these districts, subject to the conditions as stated. And that concludes my part of the report. Roger Bergmeier will give the second part and then our staff report will be concluded.

County Commissioner Hart said, I have a clarification in our mailing for the Planning Board's recommended motion. I don't have the wording that you have for number two.

Philip Maechling said, that helicopter landing facilities be allowed?

County Commissioner Hart said, number two, I thought, was the reference to business and professional offices.

Philip Maechling said, what we have are..., the staff had four recommendations. One was to...

County Commissioner Hart said, I'm sorry. I wanted the clarification on the Planning Board. Well, in both those cases, number two seems to refer to business and professional offices.

Philip Maechling said, that's correct. The...

County Commissioner Hart said, so I need the Planning Board's words. My report doesn't indicate the same as you read.

Philip Maechling said, I'll have to refer to the minutes.

County Commissioner Hart said, I've just been given them, in the minutes, but...

Philip Maechling said, "Kurt's recommendation was that item to be changed to read, reference included in this section on permitted and prohibited uses, Planned Unit Developments, medically assisted housing, etcetera, etcetera, and further that a section five be added to read that helicopter landing sites, heliports for use by government agencies towards administrative and emergency helicopter flights be in permitted use."

DECEMBER 6, 1993 (CONT.)

County Commissioner Hart said, would you let me read what I have, then which I'd assume we'd need for a decision. In the Planning Board's recommended motion, number two, the reference to "business, professional" (offices) in the section on permitted and prohibited uses be replaced with "Planned Unit Developments, medical assisted housing and medical offices are still permitted." Is that what we're dealing with on number two from the Planning Board?

Mayor Kemmis said, can you tell us where you're reading that from, first?

County Commissioner Hart said, I'm reading this on a memo from Philip on the public hearing date, November 16th, agenda items, Special Historic Fort Missoula Overlay District.

Mayor Kemmis said, and that's the memo to the Planning Board. That was the staff's recommendation to the Planning Board.

County Commissioner Hart said, well, that seems to me to be on the page number 2 of that. I think they're not too different but they are different. Then...,

Mayor Kemmis said, Philip, can you identify or find your November 16th memo to the Board of County Commissioner/City Council members?

Philip Maechling said, right. I have that right here. And what the Planning Board wanted to do was to add back in professional offices as permitted uses. From into the permitted uses section, that would revise the second condition in the staff's recommendations. And if we go to the permitted and prohibited uses section of the zoning districts, you'll notice that in..., on page 2, in..., and I'll use the City document, but it's..., the language is the same in the County document. It says, additionally permitted uses include business, professional or medical offices. In this case, the Planning Board is essentially recommending that we leave in the term "business, professional," add "Planned Unit Developments or medical offices." In other words, there was a request by staff to remove the business and professional offices as permitted uses, and have that replaced by Planned Unit Developments, so that if you wanted to propose a Planned Unit Development within this Overlay District, you could propose one if it met the standards and criteria and if it included professional offices, then that would be fine, but it would be subject to the governing bodies' review, in either case.

County Commissioner Hart said, are you saying then that only in a Planned Unit Development would those uses be allowed?

Philip Maechling said, that's the staff's recommendation.

County Commissioner Hart said, that's the staff's. But...,

Philip Maechling said, the Planning Board's recommendation was that business and professional offices simply be included as permitted uses.

County Commissioner Hart said, thank you.

Alderwoman Gingerelli said, I had written down the same question that Fern asked and so, just further clarification then, Philip. So we should proceed here, recognizing that the staff and the Planning Board are separate on their recommendation for that issue of permitted uses?

Philip Maechling said, that's correct.

Alderwoman Gingerelli said, and so, on our document of November 16th, where you read from those four, the number two item then should have been changed to reflect the Planning Board's amendment to put permitted..., professional offices back in as permitted uses? On this November 16th that Fern was just reading from? Cause you initially read us four..., those four items. And the second one, that Fern just read, did say that the Planning Board's recommendation was that business professional should be replaced with PUD's, but now you're saying that they should be permitted uses.

Philip Maechling said, the Planning Board is recommending that they be permitted uses. That's correct. That would require revising the language in the Overlay Districts in each case to put professional offices and businesses back in or leave them there, where staff has recommended a change.

Alderwoman Gingerelli said, okay.

Philip Maechling said, the other would be the emergency helicopter.

Mayor Kemmis said, okay. Are we clear then on the difference between the staff recommendation and the Planning Board recommendation?

Alderwoman Shaffer said, we received, this evening, a letter from the Mental Health Center, signed by Patricia Kent, who's the director of Housing and Development. And she's concerned about the omission of visitor and tourist support services as a permitted use. And I would think it..., that would go hand-in-hand with a Historic District. I'm not sure what is really meant by visitor and tourist support systems, but what I'm thinking of, you would need them if you're going to attract people out there.

Philip Maechling said, that might be the case. Unfortunately, in this document and nowhere else in any of our City or County zoning regulations do we have any definition for what they are. And that would leave us not knowing..., that would leave us having something that someone could call a visitor and tourist support service. And without knowing what it is, we could have an Econo Lodge, we could have virtually anything, miniature golf. And not that those uses are bad, but it would seem appropriate that they be subject to the rules and regulations that everybody else would.

Alderman Sampson said, what would be the status of the existing Mental Health services or..., what do you want to call them? Out there now, under the staff's recommendation. Would that be non-conforming usage then?

Philip Maechling said, no, they would continue as medical uses, and as public and quasi-public uses. So that's a permitted use.

Alderman Sampson said, yeah, but if any new usage would have to come under PUD.

Philip Maechling said, no, any new medical and quasi-public use, similar to what the Mental Health group does, or any expansion of what they do, would be permitted, as permitted use.

Roger Bergmeier, 616 Simons Drive. I am presently the president of the Northern Rockies Heritage Center. It is a non-profit, 501(c)(3) corporation formed to develop a series of museums at Fort Missoula. The museums will be housed in existing facilities, officers' housing or some people call it officers' row, and in the post headquarters building. An amendment to the Defense Authorization Bill provides for the transfer of this property to the Heritage Center. The bill has been signed by the President and we are in process of working with the Secretary of the Army to start transfer process. One of the four goals of the Heritage Center is to preserve the integrity of Historic Fort Missoula. For this reason, the center proposed that a Historic District Overlay Zone be created for all the buildings and lands listed on the National Historic Register of Historic Places in Fort Missoula, but within the City limits of Missoula. The Historic District Overlay Zone is designed to protect the historic values of the buildings and grounds now on that National Register of Historic Places. The boundaries of the proposed Historic District are outlined in orange on the map over there, that Phil pointed out earlier. After the Northern Rockies Heritage Center proposed the Historic District to the Office of Community Development, they assigned the drafting of the Fort Missoula Plan Steering Committee as part of..., they assigned it to the Steering Committee as part of their 1993 update of the Fort Missoula Plan. There was considerable discussion pertaining to the boundaries of the district. In the end, the full Steering Committee decided to maintain the boundaries as established in the National Register of Historic Places. The Missoula Consolidated Planning Board unanimously recommended that the Historic District be established. On the same evening, the Board also unanimously recommended that the revised Fort Missoula Plan, which includes the need for Historical Overlay District, be adopted. The Historical Overlay District provides for a review process prior to the alteration or demolition of historic resources or prior to the new construction adjacent to those resources. The district does not preclude renovation, additions to, demolition or new construction within or near the district. It does require that the owners of the buildings or buildings of new buildings must meet certain standards designed to protect the historic or cultural integrity of that Historic District.

Alderwoman Shaffer said, several years ago we heard quite a bit about a Forest Service museum. Is your group part of that plan?

Roger Bergmeier said, no, it is not. The Forest Service National Museum is to be located out at the jump base, west of the airport, and they do participate with us in the Heritage Center idea, because it is a sort of a consortium of various museums and they do support the center, but they would be located out at the airport.

Mayor Kemmis said, there was consideration, at one time, by that Board of the possibility of co-locating at your site. Is that right, Roger?

Roger Bergmeier said, that's right.

Mayor Kemmis said, their considerations finally led them out by the smoke jumpers.

County Commissioner Hart said, Philip, in our packet, there is a Fort Missoula Historic Overlay District Subcommittee recommended County document. Is this a creation of the Steering Committee? Is something that's based on our own sort of former Fort Missoula?

Philip Maechling said, that's the..., I believe what you're referring to is the actual language for the Overlay Zone.

County Commissioner Hart said, that's right, and is that related to any other document that we have or is this a new document?

Philip Maechling said, these are new zoning districts. In the County they would be part of the Special Zoning District, that's Chapter 5 of the County Zoning Resolution.

County Commissioner Hart said, okay.

Philip Maechling said, and would be..., it would set forward standards for buildings that would take place that are under County jurisdiction within the bounds of the Fort Missoula Historic District. That's correct. And then, you'll find language in the City which amends Chapter 19 in the area of Special Historic Districts, and it would become then, as part of the City Zoning District, a City Historic Zoning District.

County Commissioner Hart said, and they're similar?

Philip Maechling said, their standards are the same. There's some differences in language because the two documents, because our City zoning is slightly different from our County zoning, but they contain essentially the same standards. And they were developed to be uniform in the City and the County.

County Commissioner Hart said, and this is the first such document that we have, which is a Historical Overlay. You don't have any other?

Philip Maechling said, this is the first application of a Historic Overlay in either the City or the County. That's correct.

Alderwoman Shaffer said, I don't know who to ask this question of, but we received tonight, on our desks, a copy of the protests from the University of Montana Foundation. How would the Historic..., and they say that this would put..., "the Historical Overlay Zone would place onto hardship and restriction, upon our ability to market the property." Would that stop any development out there or how would they go about marketing or developing their property if there is a Historic Overlay?

Philip Maechling said, well, we...

Alderwoman Shaffer said, are their worries warranted?

Philip Maechling said, we received this letter of protest on Friday afternoon. The University of Montana Foundation actually was a participant in creating the Historical Overlay District and I believe voted for approval of it as part of the Fort Missoula Steering Committee. And I have not spoken after the receipt of this. As I say, we just got this Friday afternoon. This does suggest, and the City Attorney can corroborate this, that in the City will require nine votes if this protest is, indeed, in effect. I'm not aware of how it might effect the marketing or..., well, it's the University of Montana Foundation's position. You may want to direct it to them.

Mayor Kemmis said, I suspect that we may hear from the University of Montana in that regard.

Philip Maechling said, yeah, I believe that's true.

Allan Mathews, City Historic Preservation Officer. I'm speaking on behalf of the Missoula Historic Preservation Advisory Commission. The Commission would like to support the Historic District Overlay, recognizing that Fort Missoula is a special place. Not only is it recognized as such, by our community, but also by the state, the region and, in fact, nationally. In 1986, there was a National Register Historic Survey of the Fort Missoula area. It was both an architectural and historic survey. The survey determined the boundaries that encompassed all of the Historic resources and that's what you see on the map there, and that is the same boundary that's recommended by the Fort Missoula Steering Committee. Throughout the country, there are historic districts. There are actually thousands of historic districts. There are hundreds of communities throughout the country that have passed historic overlay zoning ordinances to protect their resources. In fact, we find ourselves, as a community, far behind the rest of the state even in protecting our resources. This is a good place to start, at Fort Missoula. It is the most clear cut Historic District and, I think, because of that, it is the easiest to deal with. What Historic Zoning does is provide protection for an area that's been recognized by the National Register of Historic Places as one of the most important places in our country. What Historic

Zoning does not do is it does not affect development of a particular area. It does not preclude development. All it asks is if there is to be development, let it be reviewed by the community. Let it be reviewed by a body such as the Historic Preservation Commission, that has professional historians, professional architects, neighborhood representatives, and a lot of these neighborhood representatives are contractors, realtors. We have a wide variety of people sitting on the Historic Preservation Commission. What happens when a place is placed on the National Register of Historic Places is that it just has achieved a place of significance. It does not offer any type of protection for those resources. That is up to you. That is up to the elected local representative. So, we would urge you to pass the Historic District Overlay so that we can have some sort of a review of what happens in this very special place. Thank you very much.

Robert Brown, 216 Woodworth. I'm the Director of the Historical Museum at Fort Missoula. And just as a point of clarification, perhaps, or a point of history, the initiation for the development of a Historic Overlay District was that of the Board of Trustees for the County Museums and I was instructed to originally draft such a document. And this document, through various amendments and various procedures, is now before you. However, I feel that I must tell you that the Board of Trustees for the County Museums has tabled any action on this, whether or not to approve or disapprove. So, at this point, the Historical Museum and the Board of Trustees removes themselves from any support or non-support of this issue. Thank you.

Patty Kent, Director of Housing & Development for the Mental Health Center, with offices at 337 Stephens. I'm here tonight in support of the Historic District Overlay Zone as drafted by the subcommittee. The subcommittee consisted of members of the neighborhood, property owners, planning staff, Allan Mathews, the Historic Preservation Officer for the City, Ginny Cass, a member of the Planning Board, and the developers of Divot Development. In other words, it was a very diverse group representing many, many interests. This subcommittee worked very hard to come up with a proposal that everyone could live with, and we voted unanimously to approve business and professional office uses as a matter of right in the Historic Overlay Zone. This is in recognition of the existing office uses on site, not who is in those buildings, but how they are used. It's also important to understand, as a property owner, as the Mental Health Center is, the tremendous burden associated with preserving, maintaining and, hopefully, rehabilitating one of those buildings. It is not a small, small task. With this in mind, we recognize the growing importance of the Fort Missoula area, as a cultural center. Mr. Bergmeier's committee is looking at the possibility of creating a major museum complex. And in one letter, I noted that he believes that if we can attract just one-fourth of the visitor traffic, traveling between Yellowstone and Glacier National Parks, we are looking at thirty-seven million dollars into the Missoula economy in the summer season alone. With that in mind, and with the hope of encouraging private, but appropriate, investment in the historic area, the subcommittee again voted unanimously to allow, with a mechanism of review, visitor and tourist support services. We had a very long discussion with Planning staff present regarding what are visitor and tourist support services. And the decision was not to define it, for fear that we would leave out an appropriate use. Rather, we recommended that the mechanism of review, the certificate of appropriateness in the City, and by special use exception in the County, parties could come forward and propose a use and it would be determined if it were appropriate. So, for example, a fast food or tee-shirt outlet may not make it as a complimentary use but yet a museum, cafe may well be appropriate. These uses were not going to come forward without a mechanism of review. We feel a PUD is burdensome and would discourage the private investment that we feel is needed to the success of this zone. I hope that clarifies a little bit of the issues and I'm happy to answer any questions in that regard. Finally, as I understand it, you will be asked tonight to look at, or this week, in any event, at each and every building within this Historic Zone. Staff has proposed that the entire district come forward and each building and each structure be included within that historic designation. You, as City Council members and County Commissioners, have the opportunity to review the historicity of each of those structures and determine whether it should, in part, in fact, be designated as part of this Historic Zone. That is critical to, we believe, the development of affordable housing, if it is to go forward, at the University Foundation site. It's well known that it is difficult and not cost effective to develop affordable housing. If less units will not be available, there..., excuse me, if more units cannot be built to essentially subsidize those lower cost units, because certain structures will be designated, and then it becomes difficult to demolish them, affordable housing will likely go as well. So there's a balance here between the historic value of certain structures and the need to provide affordable housing. We think you can do both and we ask that you take a very close look at those issues. Thank you.

Steve Adler, 502 West Spruce. I'm in favor of the Historic Overlay and a couple of things I'd just like to reinforce, that Allan said, is that being a part of the National Register designation, there is no protection offered to this land. It's simply kind of a vote of confidence and a recognition that it is historically valuable. In placing a Historic Overlay, it only means that what goes on will go through a review step. It does not preclude development. It only says that what development occurs should be sensitive to the historic nature that it's in. And as far as the Steering Committee goes, I was co-chair of the Steering Committee and a member of Historic Overlay Subcommittee. I have quite a few questions about the protests, whether it's in effect or not, I'm not sure, and would like to be able to reserve comment and questions, if that's at all possible until after we hear from the University. Is that reasonable?

Mayor Kemmis said, is there someone here from the University who intends to testify in this public hearing? Yes. Well, I'll give you an opportunity to raise some questions after that testimony, if you'd like.

Steve Adler said, okay, thank you.

Ted Delaney, 307 Rimrock. I'm with the University of Montana Foundation. We did issue a protest on Friday in regards to the boundaries only for the Historical Overlay District. Primarily, this was done because..., became apparent after the initial presentation for the Overlay District where presented at the Planning Board hearing, that OCD was going to require Divot to preserve both the stables and the internment camp, which was not our impression at the time that it was initially presented at the Planning Board. Subsequent to that, we were informed that in order to protest and preserve our rights to protest, it had to be done as of last Friday, as opposed to waiting to see what the Council and the Commissioners might choose how they would proceed at which point we could elect to a protest. So, therefore, our protest is only to preserve our rights as opposed to initiating a process of confrontation, which we certainly would prefer not to do. The problem that we see is that both the stable and the internment camp absorb essentially ten acres out of 55, which is a substantial portion when you're trying to service as many residential units and provide a marketable piece of ground as possible. There are varying degrees of concern regarding the two parcels that I have discussed. Certain individuals who are historians will profess that they are an integral part of the Fort Missoula area and others will disagree and say that they are ancillary instead. Subsequently, we did protest and we suggested language, very loose, I might add, as to what the acceptable boundaries might be. But the goal being that we agree with the overlay concept, but we disagree with being excluded from being able to develop our property in a fashion that we feel that is best served the University.

Alderman Horton said, when you refer to the internment camp, are you referring to the two small concrete slabs?

Ted Delaney said, essentially, that's correct, I believe. There's a depression area and there's a larger area, but essentially that's correct.

Alderwoman Gingerelli said, Mr. Delaney, would you explain how much, or exactly what Divot does with their land once it's purchased from the Foundation, affects the Foundation? Isn't the purchase price the same regardless of what Divot develops in terms of this ten acres? I'm not clear on that.

Ted Delaney said, yes, it is. The problem, though, is it may be elected by then that if the project is determined to be economically not feasible, and I differentiate that from, more or less, profitable. I mean, not feasible versus feasible. They can elect to say, well, thanks but no thanks and...

Alderwoman Gingerelli said, thank you, but it won't affect the Foundation's..., the purchase price from the Foundation?

Ted Delaney said, no.

Alderwoman Gingerelli said, thank you.

Alderman Horton said, I either misunderstood the question or misunderstood the answer. As I understood the question, it was if these areas are withheld from development, will that have an affect on the sale? And I understood you to say no.

Ted Delaney said, I think I answered it could, depending upon the feasibility of the remaining developable property.

Jim Todd, Vice-President for Administration & Finance at the University of Montana. The University certainly is one of the primary interested land owners in the Fort Missoula area. I'm sure you're aware, approximately 1966 the University acquired some 298 acres from the federal government for the use and benefit of the University. For a period of 20 years, the property that was given to the University was to be used for educational purposes and the federal government, in providing the gift to the University, prohibited the sale of the property for a period of 20 years. That prohibition expired in 1986. In 1988, the Board of Regents directed the University to transfer the property to the Foundation, where it currently is, since the property was declared surplus to the needs of the University. The Regents, in transferring the land to..., the federal government, in transferring the land to the University, indicated it could be transferred after 20 years, which was done. And the Regents, in transferring the property to the Foundation, directed the Foundation to convert a dormant asset into an active asset of the University and to maximize the return, therefrom, for academic scholarship. Currently, that's what the Foundation is attempting to do. The University does not receive any funds, nor do we have any prospects of funds, to manage or improve the properties at the Fort. The land has been transferred and the University..., or the Foundation is attempting to create a perpetual scholarship endowment as directed by the Regent for the benefit of future students. I'm sure all of you are aware of the pressure, not just on the

University but on students, for resources and the sale of the property, by the Foundation to Divot Development, the 80 some acres that we're talking about now is important, not just for the University but for students, as well. It is imperative that we have the scholarship dollars to preserve access for talented, yet financially needy students. Any overlay districts, any zoning or related constraints upon the development in the Fort Missoula area, in our opinion, needs to be carefully balanced between our perspective of public dreams and economic reality. We have participated, through Ken Stoltz, in the Steering Committee, in the discussions of the Overlay District. We've had discussions with our Executive Committee of our Faculty Senate and they have endorsed what the Foundation is attempting to do and the position that the University has taken. Our goal, in the Fort, is to convert a dormant asset into an active asset, for the benefit of the University and the students. Second goal is to preserve the floodplain in the old growth area, as specifically, that area south of the river. Our faculty have a particular interest in the preservation of that area. We believe it is consistent with public need. We also endorse and support appropriate public uses of the land that was given to the University and then to the Foundation and that includes conversion of not just the Divot..., or the area that is currently under consideration by Divot Development, but other area along South Avenue, including potential uses for retirement homes and for the Missoula Vocational Technical Center. As you are aware, all these processes that the Foundation has gone through to solicit interest in the property, has been open. It's been public and we have invited proposals for the use of the 80-acre parcel that is currently under consideration for housing development. Five Valleys Lutheran is interested in an additional 40 acres or more. The Board of Regents, the University have gone through an open and public process to solicit proposals for the purchase of the property. It is, in our opinion, responsive to community needs and certainly is consistent with what the Regents told us to do in 1988, when they directed us to convert a dormant asset into an active asset. Thank you.

Alderwoman Cregg said, I've heard verbally and also in a lot of letters of protest that you're only really asking 55 hundred for each acre and people seem to think that that isn't enough and that you should be able to make a lot more. Would you speak to that?

Jim Todd said, Mr. Mayor, Councilwoman, we've heard the same comments. We have solicited public proposals. And while certainly, in our interests, it would have been better to get more than just the four hundred and fifty thousand, we think it is a fair and competitive response to the process. I've been involved in some other land propositions of other developers and I think this is probably consistent with what we've seen elsewhere. I've heard the same comment. Others have made the comments to us but at this point, we think it is a responsive and fair offer.

Alderman Sampson said, there's been comment that perhaps the title, there may be some cloud on the title due to Army yet and due to other things. Do you have a title commitment or title insurance commitment thing or is there any problem with title? That's the first question. And the next one would be, what is the status of the Foundation? Are they a private foundation, as such, or...

Jim Todd said, Mayor, Councilman Sampson, the title is in the Foundation, not within the University, so I'll have to refer that to the Foundation and the Foundation is a 501(c)(3), private, non-profit corporation, separate from the University. But the title has been transferred from the University to the Foundation.

Alderman Sampson said, the University, as such, does not have a..., they have an interest, but they do not have a financial interest in it at this time except as a recipient from the Foundation?

Jim Todd said, Mayor Kemmis, Council Sampson, correct. We are the..., the Foundation is..., it's sole purpose is to raise and manage funds for the University, but they are separate, but we are the beneficiaries, the students and the programs at the University. Correct.

Alderman Sampson said, I'd like to address that same question to whomever can give the proper answer as far as the title.

Tom Boone, President of University Foundation, 230 Keith. To address your question, we have been assured by a title company, that has already issued a preliminary report, that we are vested--we, being the Foundation are vested with title to the property and can transfer title, under the title that we hold. So, you know, we're convinced that we can convey merchantable title to the property, subject to whatever is of record, such as easements and other normal encumbrances on the property.

Mayor Kemmis said, thank you, Tom.

Tom Boone said, may I also address Mrs. Cregg's concern about the price for the property?

Mayor Kemmis said, yes. Before you go on, let me just remind you, and everyone else, that the only way that this whole line of inquiry has relevance here is based on the fact that the Foundation has filed its protests and has made reference to possible marketability of the property. But let's remember which hearing we're in here and keep our questions carefully focused on those issues. With that, please proceed.

DECEMBER 6, 1993 (CONT.)

Tom Boone said, to start the process, once we acquired title, the Foundation did engage the services of two separate MAI appraisers and based upon those appraisals, we've placed the property up for sale and solicited proposals. Actually, there was one proposal that was made after the first requests, a new MAI appraisal, which was the second MAI appraisal, was..., we engaged in services and came up with a slightly different figure which wasn't much different from the first MAI appraisal but, in any event, it gave us a clearer idea because it was closer in time, insofar as the value was concerned. We were selling the property for something in excess of what that MAI appraisal was. And so we felt that that established what the market was for that particular piece of property. The property has some drawbacks to it. Number one, is that there is a fair amount of undevelopable land in Sleven's Island and some of the property along the river, which won't be developed. Secondly, there were some remediation that's going to be necessary because there's some hazardous waste in one of the buildings, I believe. There is no sewer that is out to that particular piece of property. The water also has to be extended to the property. There's substantial infrastructure costs that are going to be required of the developer in order to make this a marketable piece of property. I think that one part of that whole cost is the cost of the land. Now, I want to go back just in connection with that to the question Mr. Horton asked about whether or not taking ten acres out of this property, by virtue of the designation of Historic Overlay Zone, could significantly impact the ability of the developers to complete that project because they have substantially less property that they can develop and they are still faced with the substantial infrastructure costs to be able to make it into a marketable piece of property. I don't know, I mean, I don't know what Mr. Fisher and the other people with the Divot have insofar as a cut off figure, but I would think if you took ten acres out of 55, that it could be a significant impact, significant enough that it wouldn't be feasible to be able to develop the property. And that's the reason that we are protesting this, is not that we do not..., the Foundation has supported the Historic Overlay for the core Fort area. And I believe that that was what the Steering..., the Subcommittee came up with. Later, that was amended to include approximately ten acres of the property that the Foundation presently owns, and it was that reason..., for that reason that the Foundation has protested the existing boundaries for the Historic Overlay Zoning.

Mayor Kemmis said, thank you, Mr. Boone. Now, Mr. Adler we'll come back to the questions that you had in mind and I need to remind every one that we have an awful lot of evening ahead of us still.

Steve Adler said, I just wanted to say that the Steering Committee did go through an awful lot of boundary kind of haggling and in an exercise of voting and kind of giving an opinion, the whole steering Committee came up with the opinion that it didn't so much matter the boundaries, at the point we were haggling about this, as the administration and what the effect was of the district. And as I understand it, the Foundation is protesting under basically two points. That it requires that the stables and the internment camp be preserved. To speak to those, kind of point by point, if a Historic Overlay is enacted, it doesn't necessarily say the stables have to be preserved. All it does is, I believe, invokes a demolition delay of six months. So they may apply for a demolition delay and that essentially gives everybody, the community involved, six months to come up with a solution to do something with those..., with the quartermaster stables. If no solution is found, then demolition is granted. As for the internment camp, I believe OCD did not recommend preserving the entire internment camp. I believe it recommended preserving a significant portion of it, which would allow for some interpretative opportunity and, perhaps, Philip Maechling would be the one to speak to that most. As for the ability to market the land, I don't quite see what that has to do with it. I believe they have an agreement to sell the land to Divot Development and, in the meeting of the Historic Preservation Advisory Commission, two members of the Divot Development were there, Jamie Hoffman and Bob Brugh, and essentially stated that they were in support of the Historic Overlay as permitted, whether or not the University Foundation protests, and I would like them to comment on that if I got that right. That's it. I really didn't have any more questions, just those few observations.

Mayor Kemmis said, thank you, Mr. Adler.

Charlene Miller, 3416 South Avenue. We have lived across from the Fort land for about 20 years. I would encourage you to support the proposal of accepting the Historical Overlay. I feel that the land was given to the University. They have not done anything with the land in the time they've had it and that, as many of you probably know, we have lost a lot of our historical sites due to development and I think we must seriously consider that we must preserve our history and I doubt that, although I'm not a developer, that the market value might be affected by the sale of that land, but I feel that the University is making money because it did not cost them to get it and if the development has to be changed, it could be changed and still they could develop it and preserve our history.

Commissioner Evans said, I'd like to ask the developer please or the University. Was the sale of the land or the purchase of the land contingent upon any approvals or was it an outright purchase?

Mayor Kemmis said, Tom, we need you at the microphone. Unfortunately, we got to get this all on tape. Each speaker, we need to have you re-identify yourself when you come back to the mike.

Tom Boone, President of the University Foundation Board of Trustees. The agreement is contingent upon zoning being changed to allow their development.

Commissioner Evans said, thank you, Tom. That's what I needed to know.

Richard Gotshalk, 304 South 2nd West. I would like to speak in support of the Overlay District, a proposal as the committee developed it and as the staff recommended changes in it. In other words, I'm recommending the modified version of the Overlay Zone. I would like to speak at some length about what we have just heard from the University Foundation and the University. But...,

Mayor Kemmis said, excuse me, Richard, but when you speak of some length, well, we're still operating under the three-minute rule.

Richard Gotshalk said, yes, I understand that, Dan. There's even greater restraint on me in this case because we are verging on the Divot proposal stuff and what I would want to say about the overlay and their discussion really relates to Divot more than it does to Historic District, and so I would like simply to say I don't think the marketability thing should stand in the way of the approval of the Overlay Zone as it is proposed by the group that developed it and modified by the staff, and I will explain a little bit more about that when we get to Divot.

Mayor Kemmis said, any further testimony? If there's not, then we will close this public hearing and before we do that, finally I'd like to, first of all, thank the Steering Committee for very excellent work in both of these arenas and we realize how hard you've worked and how many meetings you've had, and we do appreciate it. And I'd like to thank the Board of County Commissioners for joining us here and you're welcome to stick around for as much as the rest of the evening as you'd like, but before we formally close the public hearing, Commissioner Dussault.

County Commissioner Dussault said, Philip, I would like to request some information, if you could provide it to the Board of County Commissioners, before we make a decision and I think this will clarify matters for us. On page 4 of the proposed Historic Overlay District, the County document that was attached to the staff report..., you know what document I'm in? Okay, page 4, Section D, which is standards and criteria, number one, I believe that is the section that was supposed to be amended and then amended the amendments, were amended, etcetera, etcetera?

Philip Maechling said, that's correct.

County Commissioner Dussault said, for our purposes, could you please prepare that in the two separate forms, how Section 1 would read with the proposed staff amendments and how Section 1 would read with the Planning Board amendments so we can have all three side by side.

Philip Maechling said, certainly will.

County Commissioner Dussault said, thank you.

Philip Maechling said, have it for you tomorrow.

County Commissioner Hart said, in that same document, on page 5, under E, designated cultural resources within the zone (to be determined by the Board of County Commissioners), does that mean that those cultural resources could be that stable and those internment pads?

Philip Maechling said, that's correct. Along with the other elements that are contributing elements to the Historic Overlay Zone.

County Commissioner Hart said, and also does..., I'd like to know exactly how the map delineates those areas. Is it in the first proposed map of the Historic Overlay Zone?

Philip Maechling said, the map is the map that's at the back of your report.

County Commissioner Hart said, that's the one we're all talking about.

Philip Maechling said, that's correct and it shows the boundaries. It's the same emphasis on this wall.

County Commissioner Hart said, and there's no change in that map?

Philip Maechling said, that's correct.

County Commissioner Hart said, thank you.

DECEMBER 6, 1993 (CONT.)

Philip Maechling said, and the contributing factors are listed in the registry that you have also in this document. So it should be...

Alderman Sampson said, the internment area that's been referred to and the staff recommendation is that a considerable portion of that, or I'm not sure whether that's the right wording or not, your recommendation is, how much is the original area and how much is a considerable portion thereof?

Philip Maechling said, we haven't..., the original area includes part of areas where cars and trucks are currently parked right now and it's on the map behind you, on the wall. If you look at any of these aerial photographs, you'll see some depressions outlined. Staff was recommending that the..., and this relates to the Divot proposal, not to the Overlay Zone, but for the Divot proposal, that the stables and an area of approximate..., an area that approximates two acres, including the stables, would be part of an open space green and that it would..., that the internment areas would be commemorated and interpreted, in some way, in an area like that, but we didn't draw a line around it. We left that to the designers to figure out exactly how and where. The ten-acre figure is not a figure that the staff has ever used.

Alderman Sampson said, but the..., on the overlay, we just heard some gentleman who apparently is knowledgeable in historic overlays, says that that would only preclude the demolition that building for six months. If there's some good reason to demolition it at the end of six months, that could be done on that, but that is something you're trying to do away with under the Divot proposal. And I'm sorry to try to get the two things tangled up but I don't know if for sure we can keep them separate or not.

Philip Maechling said, okay, in the Overlay Zone, there is a six-month waiting period. It's in the section on page 6 in the County document, under demolition of a designated cultural resource. And it says, if within 180 days they can't find a way to deal with it. There is an option they can be granted another 180 days or they can demolish it. The staff's recommendation, and I don't have that with me at this Board right now, but when we get to the Divot proposal, includes a special consideration of the quartermaster stables and the internment camp and it includes those things recognizing the unique character of the quartermaster stables and of those facilities and also recognizing that if the Overlay Zone does not go into affect for some reason, that the Divot proposal and its treatment of the quartermaster stables and the internment camp would still be retained and would have to be part of a proposal that this body and each of these bodies, depending on who at that time has jurisdiction over it, would have to consider.

Mayor Kemmis said, I suspect we will get back into that in greater detail when we come to the Divot proposal but, Al, are you satisfied..., do you understand that as it relates to the Overlay Zone?

Mayor Kemmis closed the public hearing.

Mayor Kemmis said, we go forward here until we're up to the public hearings before we have a recess and part of the reason for that is that I'm going to propose some ground rules for the public hearings that, hopefully, will get us through at a decent hour this evening and I think we may want to recess at that point so that the various parties can consult among themselves and come back and be ready to do the public hearings in an expeditious way. So I propose that right now we go back to our regular agenda, take up the items for final consideration.

DECEMBER 7, 1993

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

Jail Inspection

In the morning, the Commissioners and a representative of the Health Department conducted an inspection of the Missoula County Jail.

Audit List

The Board of County Commissioners signed the Audit List, dated December 6, 1993, pages 2-32, with a grand total of $131,348.97. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

DECEMBER 7, 1993 (CONT.)

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1993, between Missoula County and the SOS Health Center, for the purpose of purchasing mental health services for the residents of the Seeley Lake/Condon Valley communities in Missoula County, as per the terms set forth, for the period from July 1, 1993, through June 30, 1994, with the total value of this agreement being $2,000.00, contingent upon receipt by the SOS Health Center of Plum Creek grant funds.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Tom Leonard, an independent contractor, for the purpose of performing temperature soundings as needed on a daily basis using the equipment at the Department of State Lands site; send sounding to the Department by FAX machine, ensure transmission; work to be done before sunrise Monday through Friday; and at the request of the Department, perform soundings on holiday days and weekend days, as per the terms set forth, for the period commencing December 6, 1993, through March 4, 1994, for compensation in the amount of $22.00 for each sounding. The Contract was returned to the Health Department for further signatures and handling.

Other items included:

> The Commissioners approved a proposal from the Text Professionals for the purpose of editing the 83-page Subdivision Regulations document for correctness, clarity and consistency, for compensation in the amount of $14.00 per hour (estimated 20 hours or $280.00). The proposal was returned to Colleen Dowdall in the County Attorney's Office for drawing up a contract and further signatures.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

DECEMBER 8, 1993

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

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Kia Moua Thou as principal for warrant #16926, dated November 3, 1993, issued on the School District #1 Accounts Payable fund in the amount of $80.64, now unable to be found.

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming the Hellgate Booster Club as principal for warrant #44098, dated June 17, 1993, issued on the Missoula County High Schools fund in the amount of $370.64 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

1) the Commissioners reappointed Byrl Thompson for a 3-year term to the Seeley Lake Refuse Board through 12/31/96;

2) the Commissioners reappointed Charles Parker and Howard Reinhardt to three-year terms on the Missoula Aging Services Governing Board through December 31, 1996; and

3) the Commissioners reappointed Earl Lory to the first year of a three-year term on the Missoula Aging Services Governing Board through December 31, 1994, at which time he will be eligible for reappointment for the remaining two years of the term.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Barbara Evans and Fern Hart.

DECEMBER 8, 1993 (CONT.)

HEARING: ANNEXATION TO MISSOULA RURAL FIRE DISTRICT (BUTLER CREEK RANCH TRACTS)

Ann Mary Dussault explained from information received from Phyllis E. Browder, Recording Supervisor in the Clerk & Recorder's Office, that a petition was received by the Clerk & Recorder's Office to annex a parcel of land located in Missoula County to the Missoula Rural Fire District.

The petition for annexation was checked and verified. The petition contained signatures of more than 50% of owners of the privately owned land in the area to be annexed and a majority of the tax paying freeholders within the area described, so they meet the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The area to be annexed is described as follows:

A) All Tracts 1-31 inclusive of COS #4198, Missoula County, Montana.
B) Remainder - a parcel of land located in the N1/2 of Section 20, T14N, R19W, consisting of the NE1/4 of the NW1/4 of said Section 20; and that portion of the N1/2 of the NE1/4 of said Section 20 lying westerly of Tract 31, COS No. 4198 and lying westerly of that portion described in Book 22 Micro Page 297; containing 105.3 acres, and being subject to all easements and dedications existing and/or of record.

The hearing was opened to public comment.

Bryce Bondurant, Real Estate Broker at Coldwell Banker, representing the owners of the Butler Creek Ranch development, explained that they have petitioned for annexation to receive fire protection to the tract purchasers at the time the homes are built. Power, roads and telephone are completed and they are in the process of closing sales on some of the tracts.

Kim Birck, a potential tract purchaser, spoke in favor of the annexation. She requested that language be added to a motion to approve the annexation contingent upon the Fire Department's recommendations for the road upgrading being completed by the seller next season. If there are any changes to be made to meet the standards of the Fire Department, she stated she would like to see this be a part of the motion to approve. She stated the owner has indicated willingness to do this, it just needs to be on the record.

Bill Reed, Missoula Rural Fire District, commented the Fire District checked the roads in this area on two different occasions; the first time when the request for annexation was made and the second time at the request of Kim Birck. The roads, as built, do meet the requirements of the Uniform Fire Code. He said the only problem they discovered was that the cul-de-sacs were a bit too small for a turn-a-round for the District. They contacted Mr. Bondurant regarding this who indicated that this was no problem and was willing to do it next spring.

There being no further testimony, the hearing was closed to public comment.

Fern Hart asked how many parcels or prospective homesites are in this development?

Bryce Bondurant said there are 31 parcels on COS No. 4198, and one 105 acre remainder parcel. These parcels were divided by Certificate of Survey.

Horace Brown, County Surveyor, stated that all the roads are private in this area except for the Point Six Road for approximately a quarter of a mile; the rest is maintained either by the Forest Service or the residents.

Barbara Evans asked if the Board had the right to require that an annexation to the Fire District be approved contingent upon the owners fixing the road?

Michael Sehestedt, Deputy County Attorney, said he didn't think so. The Fire Department could decline to accept the area for annexation, but at this stage, when there is a petition for annexation, appropriate notice has been given, and the hearing stage has been reached with no protests received, the Commissioners must, by statute, grant the requested annexation. Under the statutes, it is extremely limited what the Commissioners can do. In fact, the Commissioners are required, in absence of protest, to grant the annexation.

Bryce Bondurant explained that the 105 acre parcel is located on the extreme southern end of the property. The entire ranch totals 825 acres. The divisions were made in late 1992 and early 1993.

Horace Brown explained that the County maintains the road for a quarter of mile beyond where there used to be a gate; the Forest Service maintains the rest of the road.

Fern Hart asked what will happen when this is developed; will the Forest Service continue to maintain the road?

DECEMBER 8, 1993 (CONT.)

Bryce Bondurant explained that the developer signed an agreement with Forest Service to share the maintenance of the Point Six Road through the property. The balance of the roads will be maintained through the protective covenants by a homeowner's association created by the covenants.

Barbara Evans moved and Fern Hart seconded the motion grant the request to annex the following land into the Missoula Rural Fire District, based on the finding that there were no protests received:

A) All Tracts 1-31 inclusive of COS #4198, Missoula County, Montana.

B) Remainder - a parcel of land located in the N1/2 of Section 20, T14N, R19W, consisting of the NE1/4 of the NW1/4 of said Section 20; and that portion of the N1/2 of the NE1/4 of said Section 20 lying westerly of Tract 31, COS No. 4198 and lying westerly of that portion described in Book 22 Micro Page 297; containing 105.3 acres, and being subject to all easements and dedications existing and/or of record.

The motion carried on a vote of 3-0.

Bryce Bondurant said that the developer will do the cul-de-sac in the spring and is willing to do what Bill Reed requests.

Ann Mary Dussault stated that this is worst form of subdivision because there is no review for any public purposes whatsoever. She warned that this is a "buyer beware situation."

HEARING (COS REVIEW): FAMILY TRANSFER (LONG) TRACT 2 OF COS 4296

Ann Mary Dussault explained from information received from Kathy Smith, Paralegal in the County Attorney's Office, that Renee Long submitted a request for a family transfer exemption for Tract 2 of COS 4296. Tract 2 is a 2.04 acre parcel and Ms. Long proposes to split it in half and transfer one parcel to her son, Carl Long, and one parcel to her daughter, Peg Long-Boatwright.

The history of the parcel is as follows: COS 381 was filed in July, 1974, by Larry and Donna Holt creating a 3.048 acre parcel. COS 743 was filed in 1975 by Larry and Donna Holt creating a 1.018 acre parcel with an agricultural exemption. The agricultural exemption was lifted at the request of Donna Holt in August, 1993. This was with the intention of relocating the boundaries between COS 743 and COS 381 to create two 2-acre parcels and sale to Judith L. Dudley. Ms. Dudley filed a Warranty Deed on November 26, 1993, transferring ownership of Tract 2 to Ms. Long.

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

The hearing was opened to public comment.

Colleen Dowdall, Deputy County Attorney, referred to the Public Meeting of August 8, 1993 in which the agricultural exemption was approved. She said the Commissioners were concerned with withdrawing the agricultural exemption and wanted approval to be contingent upon a boundary relocation occurring; the boundary relocation did occur. There was also some concern about how many additional building sites there would be. The revocation of the agricultural exemption was approved contingent upon the relocation of the common boundary for two 2-acre parcels.

Ann Mary Dussault explained that the purpose of this hearing was to determine whether the request for two family transfer exemptions should be approved. This is dependent upon the testimony of Ms. Long and the history of the parcel.

Renee Long said the property is strictly for one home for each her son and daughter. The whole family has lived in the area for 35 years. The purpose is to have a place for their families. The access to the property is a road off Humble Road. There is one other house along this road; the rest of the open property is the back yards of the surrounding houses. The other two acres adjacent to the subject property will be owned by one family. She explained that she did not buy this property through a realtor; Judith Dudley advertised the parcel through the newspaper. Ms. Dudley indicated that the property could not be split because the expense would be prohibitive. She explained that she bought the property for her two children.

Barbara Evans asked if Ms. Long understood what the purpose of this hearing was?

Renee Long said to avoid too much subdivision which might create problems for the water and sewer. The property was perch tested and the drainfield is excellent; water has an easy access.

DECEMBER 8, 1993 (CONT.)

Barbara Evans explained that the real purpose of this hearing is to determine whether or not there is an intent to evade the Montana Subdivision and Platting Act. Even though Ms. Long has not used any exemptions, the history of the parcel indicates there has been use of exemptions in the past. It is the job of the Commissioners to determine whether there was an attempt to evade the Subdivision and Platting Act in the past.

Renee Long said the transfer is for her children. She said they could possibly use the land jointly, but it is better to divide the parcel. She said her daughter and her husband and children currently live in Nevada. Her daughter's husband had a stroke and they will move back to Montana where her daughter will be the sole support for her family. She said her son will live next door to support his sister.

Ann Mary Dussault asked if Ms. Long owned other property in Missoula County?

Renee Long said she owns other property. She recently purchased a rental property for her youngest of six children.

Ann Mary Dussault said Ms. Long should understand that if this family transfer is approved, she can only use the family transfer exemption for her other four children; she can never use the family exemption transfer for her first two children.

Renee Long said she understood.

Fern Hart asked what this split would mean for planning for roads in the area? How close is the access to the next turn out?

Horace Brown stated that Humble, North and Edward is paved. Every future lot split will be a subdivision, subject to review; they will be reviewed separately as they come in. This split is without control, but any subdivisions that would come in would have a review.

Renee Long said the road into the parcel in question was not paved. The parcel and the adjacent parcel are surrounded by the back yards of the neighbors. There is no access except by the road through the parcel.

Ann Mary Dussault explained that in the past, some folks have gotten approval to divide their property on the proposition of giving the property to the family members, then fail to deed ownership of the property to the family members. The Commissioners have "wised up" to this method and now base approval on the contingency that the deeds be filed.

Fern Hart said the lots in question have a history of divisions without review.

A discussion ensued relative to the distance between Edward and North Avenue. The distance from North Avenue to the access is about 500 feet; the distance from Edward Avenue and the access is approximately 318 feet.

Fern Hart commented that the problem she had with this request was that further divisions will happen in this area.

Colleen Dowdall said the proposed plat does not address adequate access provided from the 30 foot access easement across to the adjacent tract.

Renee Long said it was their intent to provide this. She said her son and daughter are supposed to get with the owners of the other tract to decide how to do the road as well as to share the expense.

Fern Hart commented that this is not a County maintained road and will not become a County maintained road.

Barbara Evans moved and Fern Hart seconded the motion to approve the family transfer exemption for Renee Long for Tract 2 of COS 4296, contingent upon the filing of the deeds, transferring ownership to Carl Long and Peg Long-Boatwright. The motion carried on a vote of 3-0.

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

DECEMBER 9, 1993

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

DECEMBER 9, 1993 (CONT.)

Monthly Report

Chair Dussault examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending November 30, 1993.

Monthly Report

Chair Dussault examined, approved and ordered filed the Monthly Report of Clerk of the District Court, Kathleen Breuer, showing fees and other collections made in Missoula County for month ending November 20, 1993.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-093

The Board of County Commissioners signed Resolution No. 93-093, a Budget Amendment for FY'93 for Capital Improvements, including the following expenditures and revenue, and adopted it as part of the FY'93 Budget:

Description of Expenditure	Budget
Computer Capital 2410-250-414000-941	$79,945
Description of Revenue	**Revenue**
Intercap Loan 2410-250-383033	$79,945

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula AIDS Council, an independent contractor, for the purpose of conducting community HIV/AIDS health education and risk reduction activities in a manner consistent with DHES' current grant objectives in Missoula County's HERR service area, including Sanders, Lake, Mineral, Ravalli and Missoula Counties, as per the terms set forth, for the period commencing July 1, 1993 through June 30, 1994, for compensation in the amount of $3,200. The Contract was returned to the Health Department for further signatures and handling.

Plat

The Board of County Commissioners signed the Plat for Alloy Lots, an amended subdivision plat of Lot 4, Block 2, Momont Industrial Park Phase 1, located in the SE 1/4 of Section 35 and the SW 1/4 of Section 36, T14N, R20W, PMM, Missoula County, with the owner being Entech, Inc. of Butte, Montana.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

DECEMBER 10, 1993

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

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

DECEMBER 13, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Barbara Evans was out of the office until noon, and Ann Mary Dussault left at noon for Helena to attend the Special Legislative Session.

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Calvin Robinson as principal for warrant #19075, dated 10-15-93, issued on the School District #1 Payroll fund in the amount of $154.81 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-094

The Board of County Commissioners signed Resolution No. 93-094, a resolution annexing to the Missoula Rural Fire District the following described parcels of land, Butler Creek Ranch Tracts, and are to be assessed for said annexation a fire district levy along with other property already a part of said Missoula Rural Fire District:

A) all Tracts 1-31 inclusive of COS #4198, Missoula Co.;

B) Remainder - a parcel of land located in the N1/2 of Section 20, T. 14 N., R. 19 W., consisting of the NE 1/4 of the NW 1/4 of said Section 20; and that portion of the N1/2 of the NE 1/4 of said Section 20 lying westerly of Tract 31, COS No. 4198 and lying westerly of that portion described in Book 22 Micro Page 297; containing 105.3 acres, and being subject to all easements and dedications existing and/or of record.

Agreement

Commissioner Dussault signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences (DHES) for the purpose of providing tuberculosis services within the County's service area to prevent, control, and eliminate tuberculosis, as per the terms set forth, for the period from October 1, 1993, through September 30, 1994, with payment being up to a maximum of $6,000.00. The Agreement was forwarded to DHES in Helena.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #23, pay date of November 12, 1993, with a total Missoula County Payroll of $497,183.65. The Transmittal Sheet was returned to the Auditor's Office.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #24, pay date of November 26, 1993, with a total Missoula County Payroll of $476,806.49. The Transmittal Sheet was returned to the Auditor's Office.

Grant Amendment

Chair Dussault signed a Grant Amendment to Financial Assistance Award No. 05-25-02599 with the Economic Development Administration, extending the time period to May 31, 1994,
with the Scope of Work and terms and conditions of the General and Special Terms and Conditions other than those specifically modified in the Amendment Offer remaining unchanged. The Amendment was returned to John DeVore, Administrative Officer, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

DECEMBER 14, 1993

The Board of County Commissioners met in regular session; all three members were present. In the evening, Ann Mary Dussault attended an Air Pollution Control Board Hearing held at the City Council Chambers; Barbara Evans and Fern Hart attended a Public Information Meeting on the Airport Interchange Project held at DeSmet School.

DECEMBER 14, 1993 (CONT.)

Monthly Report

Chair Dussault examined, approved and ordered filed the Monthly Report of Sheriff, Doug Chase, showing items of fees and other collections on account of Civil Business in Missoula County for month ending November 30, 1993.

DECEMBER 15, 1993

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

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Mark Gahagan as principal for warrant #PO71676, dated November 5, 1993, issued on the Missoula County High School Payroll fund in the amount of $127.78, now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Agreement

The Board of County Commissioners signed an Agreement for Professional Engineering Services dated December 8, 1993, between Missoula County and Druyvestein, Johnson & Anderson to extend the public sewer system through the extension of a sewer main and appurtenances north of River Road along Hendricksen Drive (RSID No. 8456), as per the terms set forth, with a basic fee of $6,550.00. The Agreement was returned to Jesse Sattley, RSID Coordinator, for further handling.

Agreement

The Board of County Commissioners signed an Agreement for Professional Engineering Services dated December 8, 1993, between Missoula County and Druyvestein, Johnson and Anderson to extend the public sewer system through the extension of a sewer main and appurtenances north of Third Street along Curtis Street and along Carol Ann Court, as per the terms set forth, with a basic fee of $9,000.00. The Agreement was returned to Jesse Sattley, RSID Coordinator, for further handling.

Supplemental Agreement

The Board of County Commissioners signed a Supplemental Agreement between Missoula County and Ken Knie, an individual, Watson and Associates, Inc. Defined Benefit and Pension Plan, Tri-Corp, Inc. And Grant Creek Heights, Inc. to acknowledge that certain property north of Missoula owned in part by Tri-Corp Inc., Ken Knie and other individuals (First Party) and Missoula County (Second Party) is subject to the terms and conditions of an agreement know as the Glen Eagle Conservation and Development Plan and that certain liens and encumbrances exist against properties of the First Party which need to be satisfied; an Agreement has been reached regarding the satisfaction of some or all of the liens and encumbrances and the Parties wish to memorialize their understanding as per the items set forth in the Agreement.

Other items included:

a) the Commissioners discussed appointments to the Interim Committee of the proposed Lolo Community Council and will make phone calls to potential applicants;

b) the Commissioners reappointed Helen Cipolato as the Joint City-County appointee on the Missoula Planning Board through December 31, 1996;

c) the Commissioners appointed Keith Virga to a three-year term on the Lolo Mosquito Control Board through December 31, 1996; and

d) the Commissioners concurred with the Intergovernmental Service Agreement between the US Immigration and Naturalization Service and the Missoula County Jail for the detention and care of persons charged with violations of the Immigration and Nationality Act (INA). as amended and related criminal statutes, as per the items set forth in the Agreement.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Barbara Evans and Fern Hart.

HEARING: VON EL ESTATES (3 LOTS) - AMENDED PLAT OF LOT NO. 1 (2ND SUMMARY PLAT) - ON SAPPHIRE LANE SOUTH OF MORMON CREEK ROAD IN LOLO

Ron Ewart, Planner at the Office of Community Development, explained that Von El Estates Lots 1A, 1B, & 1C is an amended plat of Lot 1 of Von El Estates. The original Von El Estates is a 5-lot summary subdivision that was approved March 24, 1993 subject to 7 conditions. Lot 1 of Von El Estates is 3.09 acres in size, and this proposal is to divide Lot 1 into 3 lots of approximately 1.03 acres each. The property is located on Sapphire Drive approximately 650 feet south of Mormon Creek Road in Lolo. The lots will access via a short, private cul-de-sac street known as Ruby Court, which accesses to Sapphire Drive. The property is unzoned, and the 1978 Lolo Land Use Plan designates the area as residential- 2 units per acre.

Section 4-3(D) of the Missoula County Subdivision Regulations states that such second or subsequent minor plats from a parent tract (previously reviewed as part of a summary plat) shall be subject to the environmental assessment requirement and the public hearing requirements provided in the regulations. The submittal includes environmental assessment information and the project has been noticed as per requirements for public hearings.

The staff recommended that the summary plat of Von El Estates Lots 1A, 1B and 1C be approved, subject to compliance with the following conditions:

1. The following shall appear on the face of the plat and in each instrument of conveyance: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owner to waive the right to protest a future RSID for any upgrading of Sapphire Drive, Ruby Court, or Mormon Creek Road and may be used in lieu of their signature on an RSID petition. *3-2(5)(C) A mechanism for future upgrading of roads to serve the subdivision.*

2. The developer shall file Property-owner's Articles of Incorporation and By-laws, with proof of filing with the Secretary of State, or the developer shall develop a Road Maintenance Agreement to address private road maintenance. This agreement shall be signed and executed by the owner(s). *3-2(6)*

3. The easements for Sapphire Drive and Ruby Court shall be labeled "public access and public utility easement." *In order to implement an RSID, the streets should be within a public access easement.*

4. Areas for building sites shall be designated on the plat which allow for the future possibility of further divisions into half-acre lots. *The 1978 Lolo Land Use Plan shows designates this area as 2 units per acre.*

5. The developer shall enter into an agreement with the Missoula Rural Fire District to address water supply. A $50 fee per lot shall be assessed toward the purchase of a large diameter fire hose. *This is a standard condition asked for all new subdivisions in the MRFD to offset fire protection service costs and needed equipment for new subdivisions.*

6. The developer shall initiate an RSID for the upgrading of Sapphire Lane. *3-2(5)(B) This condition was also placed on an adjacent subdivision, Mormon Creek Meadows No. 3 in 1992, however it did not pass and it was decided to try again when feasible.*

Section 3-2(5) of the Missoula County Subdivision Regulations requires that all new subdivisions have paved streets and roads. The developer requests a paving variance for the proposed interior cul-de-sac, Ruby Court, and for Sapphire Lane. Ruby Court is proposed to be constructed to County gravel standards. The reasoning for the variance request is as follows:

1) Explanation of hardship: The cost of paving Ruby Court would make development prohibitively expensive. The owners do not object to an equitable distribution of paving costs for these roads, should the intensity of development warrant it.

2) Mitigating effort: The owners will agree to waive their right to protest an RSID for the paving of Sapphire Drive and Ruby Court. Timing for the RSID would come when traffic levels indicate it is needed.

3) Justification of no harm to public: Low traffic volumes (estimate approx. 280 vehicles per day from all the subdivisions along Sapphire Drive) and relatively low density development in the area indicates there is not yet a need to pave the roadways.

The reasons do not meet criteria for the granting of variances as per Article 6(1)(A)-(D).

These criteria state that the variance is essential to the public safety, health, or welfare, that the conditions for the variance request are unique to the property, that because of physical surroundings of the property a hardship would result, and that the variances will not vary any provisions of the Missoula County Zoning Resolution or the Missoula County Comprehensive Plan or master plan areas.

The governing body may grant a variance to the paving requirement, if in their opinion it is warranted. The staff recommended that the variance be denied. In addition, this subdivision does not meet the criteria for a paving variance, i.e. all unpaved roads shall be connected to a public road maintained by the County, City, or State. Sapphire Drive is not a County maintained Road. Ken Anderson, Air Quality Specialist, also recommended that Ruby Court be paved.

If a variance is granted to the paving requirements of Ruby Court, then Staff suggests that a condition be added that states: At such time that two of the three lots in Ruby Court are built out, the developer shall initiate an RSID to pave Ruby Court.

John Kellogg, Professional Consultants, Inc., commented on Condition #4 regarding the designation on the plat to allow for future lot splits. He submitted a site plan for the subdivision showing the locations of the drainfields and wells as well as the locations of the homes. He said because of the location of the drainfields and wells, they are locating the homes adjacent to the roadway at a reasonable distance. He said according to the design, if future lot splits are required, they are basically out of space on the lots. He proposed a reservation for potential future roads that would take out a half width of a road along the southern and northern boundaries. This anticipates future development in the area. This would split the lots so the newly created lots would access future roads on the southern and northern boundaries. The original lots would have access from the cul-de-sac. Because of space limitations, it would not be possible to split the lots so that they also accessed the cul-de-sac. In the future, development would occur on the back sides of the lots. Access would be obtained from Sapphire Lane from the utility easements between the lots. He said they propose to dedicate a no-build easement which would approximate a half width of a road.

He said Condition #4 asks for the location of building sites. They are anticipating that the future lots will be on the back side of the lots. He explained that he wanted to inform the Commissioners of this proposal before it came through so they wouldn't be surprised.

Fern Hart said the developers will comply with Condition #4 by granting a half a road easement on the land to the north and to the south of the boundaries.

John Kellogg said he preferred to call it a reservation for a future road or a no-build zone rather than a road easement. There are a lot more things involved in a road easement. In this situation, it appears as though it will be a long time before development occurs in this area. Anticipating this type of development in the future is difficult to do. Someone may have to buy several lots in order to develop this area. Their development will not hinder future development.

Ann Mary Dussault said the proposed structure locations sit on no more than one half of the lot. She said the Commissioners need to be assured that when these houses are finally sited, they sit on one half of the lot closest to the cul-de-sac. The other portions of the lot would have some sort of reservation of an easement which could be developed as part of a road to access the back end of the lots if the adjacent lots are ever subdivided for the purposes of bringing in sewer.

John Kellogg explained that by showing the Board the site plan, he was indicating how this will be accomplished. This site plan was submitted to the Health Department who requires certain things for the drainfields, etc. This assures that the buildings will be placed close to what is indicated on the site plan.

Colleen Dowdall, Deputy County Attorney, said a road easement should be placed on the plat for the information of the lot buyer.

John Kellogg explained that they are very uncomfortable with doing this because it is not fully known how the adjacent lots will develop. Putting a road easement through there opens up the possibility for people to drive their car through the back of someone's lot.

Colleen Dowdall asked if someone buys the lots later on, how are they going to put a road through?

John Kellogg said they would have to buy more than one lot. If someone was going to buy one lot and wanted to split it in half, it is virtually impossible for this to be done if they don't buy more than one lot.

Dick Ainsworth, Professional Consultants, Inc., referred to the question of legal access. He said he didn't have a solution to the issue. There is legal access there; a road has been there for over 10 years and serves 52 lots including 30(+-) lots in four different platted subdivisions approved by this Board. He said there are probably 40 homes which have title insurance that guarantee access to them. There may not be a written easement document from all of the owners of that private road easement, but he said there is no question in his mind that there is legal access. A lot of title companies have written title insurance on lots in this area; some in the platted subdivisions, some created by Certificate of Survey. It is unfortunate that there are problems when this is among the last of the property which could be divided. This is an area with 50 previously created lots; three lots are now being proposed for subdivision and there are access problems. There have been several other plats in the area approved in the last year and a half. He said admittedly, the language in the law was not there regarding legal access. However, the County has been concerned about legal access before the law changed in the recent Legislature. The County would not have approved any subdivision plats if they didn't feel that legal access was there. It is unreasonable now for the County to say "no" to this developer. He wondered what would satisfy the Board that legal access is there. Apparently, there is no easement document. There are three owners between Mormon Creek Road and this subdivision that would have had to give a road easement at some point in time. Down the road from the proposed subdivision, there are dozens more. An RSID to pave the road was attempted once before with the subdivision, Mormon Creek Meadows #3. The problem with the RSID's failure was not one of people not wanting the road paved, it was that the access was not public in most cases. When the first Von El Estates was done, Barb Martens had a similar condition; Horace Brown, County Surveyor, told him not to waste his time because there was no way they could do an RSID because of the easement problems. Mr. Brown indicated that requiring an RSID is ridiculous because this will waste time and money and they won't get anywhere. He said he is surprised to see it required again because it can't happen. It is unreasonable to put this burden on the developer. Someday it may be possible to obtain easements from everyone. However, all it takes is one or two people that won't give an easement. The RSID requirement is an unreasonable request to put on the developer in light of what happened with the previous RSID attempt. He requested that this be deleted from the requirements.

Barbara Evans asked who the owners are that granted the prescriptive right?

Dick Ainsworth said historically, people that subdivided by Certificate of Survey or even some subdivision plats, over the years showed the easements on the plat. They thought and intended that by showing the easement on the plat, it was created. A recent Supreme Court decision showed that easements weren't created this way; the only way it could be created was for the owner to grant an easement and actually give a document, a conveyance of that easement, to the guy at the end of the road. This didn't happen in thousands of cases in Montana; they are everywhere--even in subdivision plats.

Barbara Evans asked who owned the road?

Dick Ainsworth said all of the people that own adjoining parcels own the road; their parcels go to the center of the road. Starting with Mormon Creek Meadows #3, the County started to call the easements public road easements rather than private road easements, even if they weren't dedicated to the County. There were three other subdivisions that did this, but other than the three subdivisions, all of the other tracts have ownership to the middle of the road. All of the Certificates of Survey or plats show it as a private road easement. Buyers were sold their lot, assuming that when they bought it, they were subject to the easement.

Barbara Evans asked about the implications of the private easement ownership.

Dick Ainsworth said this gets back to the issue of the prescriptive use of the road. If the road is there and the folks have been using it for years, a fence couldn't be built which would not allow anyone else to use it. A court would probably say the residents have a prescriptive right to use the road. The chances of the court allowing one person to block the access to the other owners are very slim. However, it is a problem and there is a patchwork of easements in the area and most of them are private easements.

Barbara Evans said there have been quite a few subdivisions that have been approved based on density triggering an RSID to pave the road. It doesn't sound as if Sapphire Drive will ever be paved because of the mish-mash of people who own the road. Because Sapphire Drive won't be paved, what will probably happen is the smaller roads accessing Sapphire Drive will never be paved; or they will have to be paved when Sapphire Drive is paved.

Colleen Dowdall said the only way Sapphire Drive may be paved through an RSID is if all of the property owners decided they wanted it; at this time they would have to give the County the right-of-way.

Dick Ainsworth asked if the County could condemn or force a public easement on Sapphire Drive?

Colleen Dowdall said it cannot be called a County road unless it is created either by dedication, prescription or by petition. Everyone can say they have a prescriptive right, but it isn't a legal prescriptive right until its been adjudicated by a court. She said her concern with taking the position that it is a prescriptive right is that if the Commissioners make this decision, the day someone puts a gate up, it creates some liability on the County's part to enforce the prescriptive public right.

Dick Ainsworth said he didn't know most of the folks out there, but he has been told that most of them want the road paved and would probably give the easement; however, there may be a few that probably wouldn't be willing to give the easement. If they won't give the easement, then the RSID cannot be done.

Colleen Dowdall said Mr. Ainsworth asked what it would take to settle this issue; she suggested that he bring the Commissioners written easements. There may be some people willing to do that. This is the best evidence that this has legal access. The second would be assurance that a title company would issue a title policy that insures access to Von El Estates; this takes some of the burden from the County.

Fern Hart asked if most of the lots have title insurance?

Dick Ainsworth said most of the lots have homes on them and he could only assume that most of the folks don't own their homes free and clear; they probably have title insurance.

Fern Hart asked what the title insurance would guarantee?

Michael Sehestedt, Deputy County Attorney, said title insurance is typically not specific. However, they don't insure title to a piece of property unless there is legal access. This doesn't necessarily mean a physically practicable access.

Dick Ainsworth said that most of the policies he has seen have sidestepped this by not saying anything about it. If there isn't access, the policy says that is no access; if there is, they don't address it.

Colleen Dowdall said basically it says that they are insuring title to "this" and these are the following exceptions. One exception would be no legal access to this property. A clean title policy that doesn't have this exception attached to it then there is evidence a title company will insure it.

Fern Hart wondered why even Certificates of Survey would not have private easements on them without any type of documentation?

Dick Ainsworth stated this is what has been done historically; everyone assumed there wasn't a problem.

Colleen Dowdall said a Supreme Court decision mentioned in passing that the only way to establish an easement is in writing, by prescription or by operation of law.

She said she told Mr. Ainsworth if he wasn't comfortable finding access today, but could get it in a week. Testimony could be taken at today's meeting and the decision could be postponed for one week. She referred to the issue of timing for the project as required by law; she hadn't gotten Mr. Ainsworth's position on this.

Dick Ainsworth said he hadn't discussed this with his client.

Barbara Evans asked if Mr. Ainsworth was in agreement that the time period has passed for the review of the subdivision?

Dick Ainsworth agreed that the time period had passed.

Barbara Evans expressed her feeling that everyone should recognize that the County has gone past the statutory time limit for subdivision review, and therefore the developers have an approved subdivision.

Dick Ainsworth said technically, this is probably true. However, he stated he has never tried to push this issue.

Ann Mary Dussault explained as a matter of rule, she suggested there be no motion and no need to recognize anything in this case. She said there is at issue of whether or not, under this rule, a subdivision that may not be approvable because it may or may not have legal access; is it actually a subdivision under the statutes? She said they all may be in a catch twenty-two situation; she suggested that they not proceed with undue haste to a conclusion everyone may regret.

Colleen Dowdall said she wanted the opportunity to research this issue; this is a new statute and they are still dealing with the ramifications.

Dick Ainsworth said it never dawned on them that access was a problem because historically, it had been approved by this Board.

Barbara Evans asked if this was going to a problem in the future?

Dick Ainsworth said there is certainly some around. He stated he didn't know of many. There may be situations where a party wanted to do a minor subdivision located on a private road where there is probably no easement.

Chuck Wright, Land Surveyor in the Surveyor's Office, stated that there is 18 years worth of Certificates of Survey located in their office. He said he was just told about this particular case this spring. They were sending out deeds to many people who they have insured title with on Certificates of Survey that had no legal access. People were actually denying access because they didn't want people behind them, even though they bought lots subject to that easement. He said he has called all over the country relative to this issue to find out how others have handled it; he was told that the surveyors indicate where an easement should be placed; it is up to the lawyers to make sure there was a reservation on the Certificate of Survey or an actual easement. It was not the surveyor's job to do the legal work for the easement; they merely indicate where it should be. He said this spring, he got anywhere from three to five calls a day on this very subject. He said the Commissioners are just getting started; this is a real mess.

Fern Hart asked if Dick Ainsworth would try to see a title company or get the easement?

Dick Ainsworth said he had no intention of trying to get the easements himself. He said he told his client what the problem was and that he would have to solve it. He told his client he would talk with the title companies; if he wants to get the easements, he needs to go and pound on their doors.

Ann Mary Dussault said the first option rests with either Mr. Ainsworth or his client to exercise their statutory right under the regulations to consider this subdivision approved given that the County failed to act within the timeline. In this case, the applicant does so with the risk that they still may be moving forward with an illegal subdivision because of the access issue. The second option would be a mutual agreement to continue this hearing until next week to see if documentation can be presented that would satisfy the requirement of legal access, either by obtaining easements or title insurance. This would be an acceptable demonstration that there is access. At this point, there is another set of options. If the second option is not successful, then Mr. Ainsworth and his client still have the first option. This Board can act in concert or disagree with the County Attorney's advice; in this case they still have the first option.

Ron Ewart suggested the first option not be taken. He explained why the matter had gone beyond the timeline. He said after reading the regulations, he was under the impression that because it was the second summary, OCD would proceed as they would for a major subdivision which means notification of adjacent landowners, advertising in the newspaper, posting the property, etc. He assumed that the timeline was the same as a major timeline. He said it is three days past the timeline. If this subdivision is approved without conditions, then an RSID waiver cannot be required for the upgrading of the roads in the area. Also, the $50 fee couldn't be required for the Fire Department.

Ann Mary Dussault stated that the question is not whether the Commissioners approve it, it is whether or not it is approved. No motion is necessary; the fact of the matter is the subdivision is approved if the applicant wishes to exercise that option. This is the nature of the regulations and the consequences of not meeting the timeline.

Colleen Dowdall agreed with this as long the County cannot show that the statute is a condition to even bringing in a plat and that it is automatically approved in the regulations. If the County wanted to stop the developer, action would have to be taken based on the County's interpretation that it is not a legal subdivision because there is no legal access.

Dick Ainsworth stated that he didn't intend to exercise the first option today; he hasn't even discussed this with his client. He stated however, that he didn't want to waive his right to exercise this first option next week. He said he will try to obtain something that will satisfy the Commissioners that the proposed subdivision has legal access either by easements or a title policy.

Barbara Evans asked if the homeowner's title policies are acceptable, or do they have to obtain a new one?

Colleen Dowdall said she was under the impression that Mr. Ainsworth's client is in the process of buying the property. She suggested a preliminary commitment for this specific parcel. She said this will be ordered anyway if the subdivision is approved.

Dick Ainsworth stated it was his understanding that his client has purchased this property from Mr. Bennett, the original owner; the purchase was contingent upon his being able to subdivide the property. If this doesn't happen, his client won't get the property. At some point in time, he will have to obtain a preliminary commitment.

Colleen Dowdall said they are at the stage where it wouldn't be out of line to request a preliminary commitment.

Fern Hart asked if everyone of the 50(+-) lots has a private easement?

Dick Ainsworth said this was pretty much true. They own half of the street in front of their lots.

Fern Hart said the easements would have to be obtained one on one.

Dick Ainsworth said if everyone was agreement to giving the public the easement, there would be no problem. However, if just one is in disagreement, then there are problems. He asked how the Commissioners felt about the SID requirement for Sapphire?

Fern Hart said she saw no reason to do it if there is no public easement.

Barbara Evans stated if it was a matter of getting an easement from one or two people, and the easement could be a matter of their contribution to the road to the SID, she would be inclined to agree to this. But if they have to obtain easements from 52 homeowners, it doesn't sound do-able.

Dick Ainsworth stated he didn't feel it was possible. There has got to be 20 or 30 people who are affected.

Fern Hart suggested that Mr. Ainsworth try to do what he could before next week's meeting.

Fern Hart moved and Ann Mary Dussault seconded the motion to continue the hearing on Von El Estates Lots 1A, 1B and 1C, summary plat, until the Public Meeting on December 22, 1993. The motion carried on a vote of 2-0 with Barbara Evans abstaining from the vote.

There being no further business to come before the Board, the Commissioners were in recess at 2:25 p.m.

PUBLIC HEARING: PROPOSED AMENDMENTS TO THE SUBDIVISION REGULATIONS

Ann Mary Dussault called the meeting to order at 7:00 p.m. She explained the purpose of the meeting was to take public testimony on the proposed revisions to the subdivision regulations.

Barbara Martens, Planner at the Office of Community Development, explained that after the two work sessions held on the 2nd and 3rd of December, a memo was drafted dated December 13th where recommendations were made relative to the issues that came out at these previous meetings. There was also a letter received from Scott Waldron of the Frenchtown Fire District regarding the changes and responding to the memo dated December 13th. A letter from Zoe Mohesky and Tim Hall, both of Rural Planning, dated December 15th, was also received.

Barbara Evans said she has told the Fire Departments for years they need to get some regulations for subdivisions. She asked if the staff planned to incorporate fire regulations into the subdivision regulations?

Barbara Martens said they have been working with a committee of both the City and the County fire personnel, State Lands, etc., and are working to develop standards that would be part of a proposal at some point in Phase III of the subdivision reform.

Colleen Dowdall, Deputy County Attorney, said the Fire Districts were to bring some standards they wanted to see in the subdivision regulations to the staff by early December. However, they indicated that they were having some difficulty and were thinking that an entire set of guidelines could be incorporated which would be attached to the subdivision regulations. The staff had a problem with this; they wanted to go through a better process that took the best guidelines out of the regulations used around the state. The staff indicated that they would get together with the fire protection agencies in January to help them get the best and most appropriate guidelines for subdivision regulations.

Barbara Evans asked if the Uniform Fire Code was a part of the fire protection agencies' request to be included?

Colleen Dowdall said it is another document that has been put together by a number of state-wide agencies and federal agencies which gives guidelines for building in the wildlands interface. Some of the guidelines aren't appropriate for subdivision regulations; they require things that can't be done within subdivisions, but may be

able to be done within the design standards for building permits. Mr. Waldron specifically requested that the Uniform Fire Code be defined in the subdivision regulations. The staff's response was this will be done in Phase III because the Uniform Fire Code will be referred to in Phase III. The staff felt it was not appropriate to be added in Phase II because it wasn't referred to anywhere else in the document except in the definitions. Generally the definitions define what is in the regulations.

Fern Hart referred to Mr. Waldron's letter pertaining to his concern that the department didn't have enough time to respond. He needs to understand that his responses will be considered when they come in.

Colleen Dowdall said the fire protection agencies were the most concerned with the agency review time period. Mr. Waldron requested 15 days. During the two work sessions it became apparent that there were strong feelings by both the developers and the Commissioners that this length of time was not wanted. She said a compromise was recommended.

Fern Hart said even if the agencies don't get their responses in within the 10 days, it will be considered as long as it is in before the Commissioners hear the matter.

Ann Mary Dussault clarified the process. The draft regulations are intended to be Phase II of the changes in the subdivision regulations. Phase I was the first set of regulatory changes designed to bring the County's regulations into compliance with the new changes in the State law relative to what constitutes a subdivision and what constitutes an exemption to the Subdivision and Platting Act. These regulations were adopted a couple of months ago. In dealing with the statutory changes to the subdivision regulations, the State issued a set of model regulations. The Commissioners felt it was worthwhile to go through the process of looking at the County's regulations in comparison to the proposed regulations from the State for the purpose of looking at gleaning the best from both and incorporating that into one document. This is what tonight's meeting is about. Phase III will be an extended process where the Commissioners will look at adopting specific standards relative to various areas relative to subdivisions and development in riparian areas, hillsides, etc. It will take into account all of these areas people have expressed concern about, but have never sat down and developed specific standards relative to each of those areas. Phase III will take approximately six to twelve months to develop differing standards for specific areas of concern. The issues relative to fire standards and codes will come in at this point and will be a specific part of this process.

The hearing was opened to public comment.

John Fletcher, 800 Chestnut Street, submitted a copy of a memo submitted to the County Attorney's Office, which directed attention to cosmetic language changes. The memo is on file in the Commissioner's Office.

Ann Mary Dussault explained that after tonight's hearing, the Board of County Commissioners will meet in working session to make decisions on issues which have been brought up. The County has contracted with an editor who will edit the actual regulations and have them in final form by January. At this time, the Commissioners will adopt the regulations. The Commissioners, too, saw the need to have a clean eye look at the language.

Dick Ainsworth, Professional Consultants, Inc., asked if the Commissioners intended to hold any more public meetings? Will the public see a document that has the final language and be able to comment on it before the Commissioners adopt it? He said it is difficult to read through the draft and really see what the document will look like when there are additions and subtractions. He said it would be nice before the Commissioners finally adopt the document to have public comment on the final draft. It is a good idea to have the document professionally edited, but he requested that the public be allowed to review and comment on the final document with all the changes made before adoption. He said it didn't matter whether it was in a public forum or in writing. He said he just wanted another opportunity to comment before the document was finally adopted. There are some comments made in Barb Marten's memo which need to be clarified because they don't completely reflect what was discussed in previous meetings.

Ann Mary Dussault asked if Mr. Ainsworth was asking for a final draft that wouldn't have any deletions or additions reflected in the document? It will simply be the regulations proposed to be adopted. She explained that the editing will not make any substantive changes.

Dick Ainsworth said whatever form the document takes after this hearing, the public should see it and be able to comment on it before it is cast in concrete.

Fern Hart explained that the County cannot continue to send 150+ copies out to the public; she proposed that the final draft be made available to either be purchased or checked out and allow a certain time for the public to review it.

DECEMBER 15, 1993 (CONT.)

Dick Ainsworth referred to the memo from Barb Martens dated December 13th which reflect the changes made after the two working sessions. He wondered about the wording on the bottom of page 4 and the top of page 5 regarding hilltop road intersections. The staff's recommendation was to eliminate the direct prohibition against hilltop intersections, but prohibit them within 200 feet of hilltops for local roads and 400 feet for arterials and collector roads. He said the important thing in this instance is site distance. It all depends on the roads and the hill as to how far back is suitable. He said he would hate to see a particular distance cast in concrete; it may be more appropriately addressed by stating adequate site distance.

On the bottom of page 5, there is some language that talked about right-of-ways or easements of not less than 10 feet wide adjacent to a roadway for walkways and bikeways. He said if there was a 60 foot right-of-way, 10 additional feet of easement may not be needed. He said this was not clarified in the memo. If the language is not changed in the draft document on page 22, it could be interpreted that an additional 10 feet would have to be given to the 60 foot right-of-way. This needs to be clarified.

He said on the bottom of page 6 of the memo and page 33 of the draft, the criteria for qualifying for a PUD is discussed. Originally, the way it was written, there were six criteria; a developer had to meet three of them. He said John Mangiameli's suggestion was that two of those should be combined because they were quite similar. He said this would create the situation where a developer would have gone from having to meet 50% of the criteria to 60% of them, which is of concern. He said this bothers him because the criteria becomes more difficult to meet. He didn't disagree with Mr. Mangiameli's suggestion, but he said he didn't like increasing the number that had to be met in order to qualify.

He referred to page 7 of the memo which pertained to the review time period. He said the staff recommended eliminating the first week between the meeting with the OCD staff and the developer, allowing the developer to bring in his packet immediately after that meeting. He said he has never had a project where he had the packet ready before the preapplication meeting. The idea of this meeting is to visit about the project and go back and put the packet together. He said it looks like it is saving a week, but in reality, it isn't. The staff recommendation continued, "The sixty day period would still begin to run after the agency review, but, if the developer stays on the schedule in the tables, it will be 56 days from certification until approval." The staff then recommended that the following language be added, "the application acceptance date shall occur 21 days prior to the first planning board meeting before which a public hearing can be scheduled and the work can be completed by staff." He said this means it doesn't matter when the developer wants to turn it in; the staff will accept it when they are ready to. The staff will look at the work load and the Planning Board and Commissioner's schedule before they accept the packet. He said this has made a joke out the whole time line. The developer works against a time line from the pre-application meeting until the comments are returned by the various agencies; the packet is then turned in. Under these regulations, the staff can choose not to accept the packet until they are ready to accept it; the time line will not start until the staff accepts the packet. What happened to the 60 days allowed for under the law? He said the staff shouldn't be able to accept the packet when they are **ready** to accept it; they should accept it when the developer turns it in.

Fern Hart asked what Mr. Ainsworth thought would be a fair, but still be flexible? If the staff asked for more time, would he give it to them?

Dick Ainsworth said he didn't have an answer for this. The Planning Board and the OCD staff is overworked. However, the way the regulation is written, it is very open ended. This was not to suggest that the staff would put a developer off forever, but they could. The developing season in this area is very short. He said he knows there are controversial projects that are long and drawn out at times; if too many of these are on one meeting schedule, it gets to be a headache. Some juggling of schedules needs to be done, but from the point of view of the developers, it is very difficult to work with their clients if there is no set time line. He said he hated to see this written into the regulations.

Barbara Evans asked if this was a part of the model regulations or was this a recommendation by the staff?

Colleen Dowdall said it was something the staff added in response to the comments during the work sessions. First come first served was discussed and it was concluded that this needed to be pinned down in the regulations. She said they hoped this would be accomplished by this statement in the regulations. She said they didn't do this as a joke; they struggled with it and spent a lot of time trying to determine how the staff and the Planning Board's time could be balanced with the time limits for getting something through review and not risking going over the time limit. It will not conflict with the 60 day statute because the proposed regulation states the staff will not accept it for certification until they know they can get it through in 60 days.

Dick Ainsworth stated that the law doesn't say anything about when the staff should accept it.

He spoke in opposition to the language on the top of page 8 of the memo which stated in the last sentence, "The governing body reserves the right to impose additional conditions which require compliance with regulations which exist at the time that each phase is brought before the governing body for review." He said everyone

knows, including the developer and the governing body, that certain conditions and rules have to be met in a project. However, this regulation says that down the road, the governing body can attach additional conditions. This defeats the purpose of trying to get a relatively long term phase development. In most cases, in long term phase developments, the developments are not inadequate or aren't doing the job just because of the passage of time; they are pretty good projects. This would not solve any problems. The bottom of page 8 and the top of page 9 has similar language dealing with major plats. He stated the same objections.

Regarding variances to the subdivision regulations, he referred to page 63 under Article 6 in the draft document. He said the staff's position, in general, is that they are not supportive of any variance. He said they figure if it is not in the standards the way it ought to be, it shouldn't be done.

Fern Hart said the staff may think that it is the governing body who should decide.

Dick Ainsworth said this concept bothers him. If it is an item which was always being brought in for variances, it probably means the regulation needs to be changed. He said the things that would be addressed in Phase III such as road rights-of-way, road widths, lengths of cul-de-sacs, etc., do need to be changed because people always want variances from them. The way the variances are written has never been questioned; no one can tell why a certain variance was written the way it was. He referred to section (B) which stated, "The granting of the variance is essential to the public safety". He wondered what variance would actually be essential to public safety? Technically, a variance could never be granted because it could never meet the first criteria. It shouldn't be this way. The language should not be so strict so as to never be able to meet the criteria. The word "essential" should be deleted from the language. No regulation is perfect and variances will always be requested. He said the language should be such that they can be obtained if in fact they make sense.

He submitted written testimony from John Kellogg of PCI who could not be in attendance. The document is on file in the Commissioner's Office.

Fern Hart wondered if "essential" could be replaced by "not detrimental". The purpose of planning is to protect the community.

Dick Ainsworth agreed with this language. He said in Ravalli County, the regulations read "not detrimental" rather than "essential". This would make the regulation more flexible.

Kelly Close, Department of State Lands, representing the Missoula County Fire Protection Association, asked for clarification of the concerns of the fire agencies. He said their first concern had to do with the 10-day agency comment period. The impression of the fire agencies is when a subdivision is presented for review, the fire agencies will only have 10 days to review that subdivision, make recommendations and return them; anything outside of that 10-day period, they feel they are out of luck. He asked that clarification be made where the agencies have some input and where that input will go into the whole review process. He said he has only been to a couple of meetings, but the overall feeling through these meetings has been a real positive one.

He said there has been concern expressed especially by City Fire that the Uniform Fire Codes be included in the regulations. He said concern has also been expressed that fire regulations have not been included in Phase II and that this is their last chance to see these regulations included.

He commented that variances have been granted for public safety such as interface developments. Concessions have been made concerning vegetation clearance in favor of developing a water supply for fire suppression. There are some variances in the interests of public safety.

Barbara Martens explained the 10-day review period for the agencies. She said the goal and the hope is that the agencies will be able to respond within that 10 day review period. This period is before the applicant has submitted a project to OCD and paid the fees to go through the process. If there are concerns or red flags that come about from the agency's review, the developer can be notified early on in order to have the opportunity to redesign the project before they get into the formal process. If agencies do not have an opportunity to comment within the 10 day review period, they can comment up until the time the Commissioners make their final decision. This would mean possibly another month to comment.

Kelly Close said the concern was not knowing exactly where there would be windows for the fire agencies to have input and if it would carry any weight.

Fern Hart explained that the 10 days is 10 working days or two weeks; the period has actually been extended.

Kelly Close said the major concern is with about five percent of the subdivisions which occur in wild fire hazard areas. For the vast majority, there may be only one fire department dealing with it and it is not as big an

issue as when several different jurisdictions are involved. Trying to get some kind of cohesive response from two different fire agencies will take more than 10 days.

Colleen Dowdall said Mr. Waldron had proposed a 15-day period. During the work sessions, the staff proposed the 15-day period. The response was overwhelmingly negative to expanding the process any further for the developers due to the short building season. The staff tried, but it was not accepted very well.

Kelly Close said the agencies are having to deal with subdivisions that are going in where there will be fire protection concerns. Once a subdivision has been built, it is there for a very long time; what is another five days in the review process?

Ann Mary Dussault said the rest of the story is that everyone has time lines within a statutorily demanded time frame. Everyone needs have to be balanced for this time frame.

Barbara Martens addressed the concerns expressed that the definitions of the Uniform Fire Code be incorporated in the second draft of the subdivision regulations. She said the memo of December 13th explained that this would be deferred until Phase III. At this point in time, there is no standard or reference within Phase II to the Uniform Fire Code. If it is included as a definition now, there would only be a Uniform Fire Code definition; it would not be placed anywhere else in the document. It is not that the staff is ignoring or not dealing with it, it is just more appropriate to incorporate the codes when fire standards can be established in Phase III.

Colleen Dowdall said she and Barb Martens have been meeting with the fire agencies in advance of Phase III; they finally had to stop just to get through Phase II. However, the fire agencies are further ahead than almost any other agency who have needs to be met in Phase III. There is no danger that the fire agencies are going to be pushed aside. Phase II had a very definite purpose to look at the model regulations to see which regulations could go into the existing County regulations.

Kelly Close said the misconception was that many people thought the fire agencies were going to be a part of Phase II. He said judging from the meetings he attended, they went well and he was pleasantly surprised at some of things that occurred.

Fern Hart said Phase III is not going to be adopted as a whole project; rather, it will be a series of amendments.

Ann Mary Dussault said part of the problem became clear early on in Phase II; different agencies were wanting to deal with their issues in Phase II. Unless the Board of County Commissioners clarified that the purpose of Phase II was to merge the model regulations with the current regulations, the phase would never be completed and not accomplishing anything. At some point in the process, the Commissioners narrowed the purpose for the staff. Phase III now has a list that is growing daily of things that either the Commissioners or different groups want to see addressed with different sets of standards. Fire standards are a good example of this. After the first of the year, the Commissioners will sit down with the staff and start to very clearly delineate what the next items are and put these into a time frame. Each of the processes is taking between 6-10 weeks. She said they are more clear on what the phase will contain, but are not as clear as what comes first and how long each segment will take.

Kelly Close said a lot of people are aware that the Commissioners have a long list of issues to deal with from wildlife, migration, corridor, the viewshed, water quality, fire, etc. Fire is but one of a long list of issues to be dealt with. He said now that the review period has been clarified and now that the fire agencies know where they stand and that their input will be part of the process, this will smooth some of the ruffled feathers. He said some of the key people who will be looking at these subdivisions may be called away on fires during the fire season. As long as they know they have some latitude to make comments, they will feel a lot better about the process.

He said he appreciated what Barb Martens and Colleen Dowdall have done in this process. The fire protection agencies are not trying to slow development or shut down subdivisions, but are trying to address issues up front that will have to be dealt with at some point. It is easier to try to deal with them before the fact rather than try to retrofit some of these communities after a disaster. The agencies are working on hazard maps County planners can use to decide which subdivisions may cause potential problems. The whole intent is to provide information up front.

Greg Martinsen, Martinsen Surveys, referred to the comment made by Dick Ainsworth concerning the wait that may occur before the start of the 60-day statutory period. He disagreed with the method of "first in, first out." He said it took 90 days to get a two day review done on one of his subdivisions. He said after this, he was very skeptical about allowing liberal time lines. As busy as everyone is, this tends to create procrastination. He said he spoke with Scott Waldron who mentioned that one of his big concerns was the fact that sometimes in the summer, the fire agencies are working their tails off. They have a definite problem with handling the

paperwork. He stated he did not know of an instance where a developer has turned down a request by OCD for a few more days to review a subdivision; it is not good business to do this. On the other hand, the guidelines should be applied strenuously.

John Mangiameli commented on the memo of December 13th from Barb Martens. He said some of the problems he saw would probably be cleared up once the editor goes through the document. He requested that he have the chance to review the final draft before approval. He referred to page 21 of the subdivision review document, the last sentence; he proposed that a period be placed after the word "plat". There are regulations from the Health Department that dictate steepness of slope for septic systems, etc.

He referred to page 23, Section 3-4 (5), which talked specifically about culverts, but leaves things out regarding bridges. He requested that this be reworded so these items could be covered for bridges as well as for culverts.

On page 28, item number E, he proposed that the word "common" be struck for the sake of clarification. Someone may construe this as meaning this would be included in the one-ninth dedication for common area and that it would provide storage, not recreation.

On Page 31, under (H), it discusses existing trees and other vegetation shall be preserved where appropriate. He proposed that the language be changed to include the language in Section 3-1(5) on page 14 so there may be consistency throughout the document. The same occurs on page 33 3-12, page 55 Item M; there are a total of three instances where page 14 Section 3-1(5) should be incorporated for consistency.

On Page 41, item B, there is a discussion that talks about minor modifications, but there is no discussion about majority modifications.

He spoke as a former staff member of the Office of Community Development, and said he understands the developer's concerns relative to page 7 of the memo. However, there should be a degree of flexibility built into this whole process so there aren't major scheduling problems in order for things to get done in a timely and thorough fashion. He referred to Dick Ainsworth's comments relative to variances and said that when the staff spoke about not supporting variances, they were speaking specifically to granting variances that would cause conflicts with the zoning ordinance. It wasn't their policy to create subdivisions that caused zoning violations.

He commended the Commissioners and the staff on their hard work they put into the subdivision regulations.

Ann Mary Dussault called for any further public testimony. There being none, the hearing was closed to public comment. The Commissioners began a phase of discussion.

Dick Ainsworth referred to John Mangiameli's comment relative to slopes in excess of 25% (page 21 of the draft document). Mr. Mangiameli proposed language which basically states that a developer cannot build on slopes in excess of 25% unless they can show it is suitable. He said he would rather not see a definite statement that a developer can't ever do it--period. There should be some flexibility and this language takes that away.

Fern Hart expressed her appreciation to the audience for taking the time to be interested enough to read the document.

Colleen Dowdall explained that the staff and Commissioners are scheduled to meet next week to review the proposed changes. The staff will incorporate the changes that the Commissioners are ready to adopt and have that back from editing by January in order for the Commissioners to be able to vote by January 5th.

Ann Mary Dussault said the consideration for the Board would be to hold a final hearing for the purpose of public comment on the proposed regulations on the 5th of January.

A discussion ensued relative to the time frame the final draft would be available for public comment. It was concluded that the time schedule would depend upon the editor. The Commissioners may have to delay their own time line in order to allow the public time to review. The earliest the Commissioners would have it would be the 3rd of January; however, would this give the public time to review it before the 5th?

Dick Ainsworth said this is a pretty short time frame.

Barbara Evans said she personally wanted to leave three or four days time for review. This will eliminate the necessity of having to go back because the public did not have enough time to review it.

Ann Mary Dussault asked Colleen Dowdall to find out from the editors when they can have this done.

Colleen Dowdall said part of the time line will depend on how long it takes the staff to complete the draft.

DECEMBER 15, 1993 (CONT.)

Fern Hart thanked the audience for coming. The Commissioners and staff want a document that everyone can live with.

Dick Ainsworth asked if the City intended to do something similar?

Barb Martens said the City will be doing a similar process.

Ann Mary Dussault said there was some discussion about trying to do the regulations simultaneously. The Commissioners decided that because there is a Phase III, they needed to move ahead due to the time involved in doing it simultaneously. There is a need to have some consistency. The Commissioners understand that this is a changing world; as the Board changes things, they may in fact be causing the need to make further changes.

There being no further business to come before the Board, the Commissioners were in recess at 8:10 p.m.

DECEMBER 16, 1993

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

Audit List

Commissioners Dussault and Evans signed the Audit List, dated December 15, 1993, pages 3-37, with a grand total of $174,725.92. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Employment Agreement

The Board of County Commissioners signed an Employment Agreement, dated October 4, 1994, between Cynthia B. Klette and the Missoula County Commissioners for the purpose of employing Cindy Klette as the Director of Policy and Program Development, as per the employment duties and functions set forth, and as per the terms and conditions set forth in the Agreement.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

DECEMBER 17, 1993

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

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

DECEMBER 20, 1993

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

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming John Schuberg as principal for warrant #22238, dated December 17, 1993, issued on the School District #1 payroll fund in the amount of $1,839.50 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

DECEMBER 20, 1993 (CONT.)

Vehicle Lease

The Board of County Commissioners signed a Vehicle Lease agreeing that Missoula County hereby leases from the Missoula County Deputy Sheriff's Association, the Association's 1946 Ford Automobile. The lease of the vehicle shall be intermittent and only for publicity or promotional purposed and only for those periods as the Sheriff or his designee and Association agree that use and/or display of the vehicle is appropriate. The county will provide liability coverage in the same manner and to the same extent it insures its own vehicles and assures no responsibility for damage to the vehicle.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

DECEMBER 21, 1993

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

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #25, pay date of December 10, 1993, with a total Missoula County Payroll of $466,688.04. The Transmittal Sheet was returned to the Auditor's Office.

Other items included:

1) Commissioner Dussault signed the following completed documents for the EDA Grant No. 05-25-02599: Federal Cash Transaction Report, Financial Status Report, and the Request for Advance or Reimbursement. The documents were returned to John DeVore, Administrative Officer, for further handling; and

2) the Commissioners selected Fern Hart as the Board Chair for 1994.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

DECEMBER 22, 1993

The Board of County Commissioners met in regular session; a quorum of the Board was present. Ann Mary Dussault was out all day due to illness.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Sharon Venena, an independent contractor, for the purpose of writing, editing and assisting with the layout of "Missoula County Health Profile Phase One: Compiled Data", as per the terms set forth, for the period commencing December 17, 1993, to January 31, 1994, for compensation in the amount of $2,200.00. The Contract was returned to the Health Department for further signatures and handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Beth Thompson, MD, an independent contractor, for the purpose of providing medical care, quality assurance of clinical services and participating in the development of primary care policies and standards for the Missoula City-County Health Department as indicated in the attachment to the Contract, as per the terms set forth, for the period commencing December 15, 1993, for compensation not to exceed $6,000.00.

DECEMBER 22, 1993 (CONT.)

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Montana People's Action, an independent contractor, for the purpose of providing case work and other services necessary to relocate residents of Missoula Village West Trailer Park, as per the list of services attached to the contract and the terms set forth, for the period commencing on December 9, 1993, to February 28, 1994, for compensation in the amount of $3,502.00.

Other items included:

a) the Commissioners signed a County Identification/Action Form for the Western Montana Mental Health and MIADS services, The form was returned to the Health Department for further handling; and

b) the Commissioners signed a Notice of Intent to Withdraw from the MACo Workers' Compensation Trust and the Workers' Compensation Program Agreement as of 12:01 a.m., January 30, 1994, or at such later time as Missoula County shall satisfy the conditions permitting its withdrawal which are set forth in Section 6.3 of the Program Agreement.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Acting Chair Fern Hart. Also present was Commissioner Barbara Evans.

BID AWARD: 140' X 100' METAL STRUCTURE (FAIR)

Fern Hart explained from information received from Sam Yewusiak, Fair Manager, that bids for a 140'x100' metal structure were requested earlier in the year, but the bids were much greater than anticipated. Plans were revised and it was determined by the Fair Commission that a revised bid be requested. The results were as follows:

Iroquois Industrial, Inc.	$122,800.00
Structural Systems	$131,500.00

At their meeting of December 20, 1993, the Fair Commission reviewed the bids and the information material on the 140' x 100' metal structure and recommended that the bid by Structural Systems in the amount of $131,500.00 be accepted. It was the Commission's opinion that based on roof construction, this building is a slightly better building than the other. The building must be completed by May 1, 1994. The fiscal impact of the 140'x100' building is $131,500.00, which is slightly above the anticipated cost, but the monies are available in the current 93-94 budget.

Sam Yewusiak, Fair Manager, explained that when the Fair Board met, the bids for the metal structure were discussed. The 140' x 100' structure is the first half of the building and will stand open for several years. He said no one on the Board is an engineer. Both types of structures are currently used at the fairgrounds and there have been no problems with either type of building. He said the Fair has dealt with both companies. He explained that the Fair Commission felt that the way the skin of the roof attached to the Structural Systems building made it a stronger system. The Board decided that the roof of the Structural Systems building would weather better because of the way it will expand and contract.

Barbara Evans asked if both firms met the bid specifications?

Sam Yewusiak said they both met the specs.

Barbara Evans asked if both firms met the specifications, how can the Commissioners justify awarding the bid to the one that wasn't the lowest bidder?

Michael Sehestedt, Deputy County Attorney, explained that the way the County bidding law is worded, the Commissioners are to award a bid to the lowest and best responsible bidder. 'Lowest' is a mathematical calculation; if a bidder can obtain a bond, they are 'responsible'; if the bid is 'best', it doesn't necessarily mean it is the lowest bid in terms of the price. Another example of best is if a service and the maintenance is available locally. In this case, while both the bids met the bid specifications, the Fair Board felt that the bid from Structural Systems was better because of the manner in which the roof is attached. He said he was a little uncomfortable with the fact that this decision was made with no engineering data to support the determination. If the Commissioners reject the low bid in favor of the higher bid, they should be able to articulate and

substantiate the reason with some hard and fast facts. The reason has been articulated, but hasn't been substantiated.

A discussion ensued relative to obtaining an engineer's opinion. After the bids are opened, they are usually good for 45 days. The bids were opened on November 23rd. This would give the Board 15 days to obtain an engineer's opinion. It was concluded that action on this matter could be deferred until January 5, 1994.

Barbara Evans moved and Fern Hart seconded the motion to postpone action on the bid award for a 140'x100' metal structure for the Fair until the Public Meeting on January 5, 1994; a qualified engineer of the County's choosing shall look at both of the specifications of the structures for the purpose of providing a recommendation for the best building. The motion carried on a vote of 2-0.

Sam Yewusiak suggested that the Fair Board contact an engineer.

BID AWARD: ONE 4X4 UTILITY VEHICLE (JUNK VEHICLES - HEALTH DEPARTMENT)

Fern Hart explained from information received from Richard Corrigan, Junk Vehicle Supervisor in the Health Department, that $20,000 was budgeted for the purchase of a new 4x4 utility vehicle for use by the Junk Vehicle Department. The bids were opened on December 20th with the following results:

Karl Tyler Chevrolet		$18,485.00
University Motors	-1994 Trooper	$20,745.00
	-1994 Rodeo	$19,459.00
Bitterroot Motors	-1994 Ford Explorer	$19,680.60
	-1994 Toyota For Runner	$21,965.00

The sale of the old vehicle to the Water Quality Department netted $5,075. After physically inspecting each vehicle that was bid, the staff recommended the purchase of the Ford Explorer, in the amount of $19,680.60 from Bitterroot Motors, as it best suits the needs of the Junk Vehicle Department.

Bid Price	$19,680.60
less cost of manuals	$ - 100.00
plus cost of automatic hubs	$ + 89.00
plus cost of adding cassette player	$ + 150.00
	$19,819.60
less sale of old vehicle	$- 5,075.00
	$14,744.60

Richard Corrigan explained that the two lowest bids did not meet the specifications. The Ford Explorer is the least expensive vehicle that fully met the minimum specifications. The Karl Tyler vehicle was a two door rather than the four door sport utility vehicle. There were a few minor things in the specifications that the Isuzu Rodeo did not meet. He said there was about $400 difference between the bid for the Isuzu and the Ford; the Ford Explorer had four wheel anti-lock breaks, side crash protection and advertised one more mile to the gallon. The Junk Vehicle Department puts 90-100,000 miles on a vehicle; it was felt that the County would be best served by the Ford Explorer.

Michael Sehestedt stated that the Ford Explorer is actually the lowest responsive bid which meets all of the bid specifications.

Barbara Evans moved and Fern Hart seconded the motion to award the bid to Bitterroot Motors for the purchase of a new 4x4 utility vehicle for use by the Junk Vehicle Department in the amount of $19,680.60, based on the recommendation of the staff. The motion carried on a vote of 2-0.

CONTINUATION OF HEARING: VON EL ESTATES (3 LOTS) AMENDED PLAT OF LOT NO. 1 (2ND SUMMARY PLAT) ON SAPPHIRE LANE SOUTH OF MORMON CREEK ROAD IN LOLO (CONTINUED FROM DECEMBER 15TH)

Colleen Dowdall, Deputy County Attorney, explained that at last week's Public Meeting, Dick Ainsworth, PCI, was asked to show whether there was any access on Sapphire Drive. Mr. Ainsworth obtained a preliminary commitment for title insurance insuring the developer's interest; there are no exceptions which say the development will not have access. She said she was comfortable with this as it was what she had requested the developer to bring as evidence of access.

Dick Ainsworth, PCI, commented that they had requested Condition #6 be deleted at last week's meeting. The condition required that the developers initiate an RSID for the upgrading of Sapphire Drive. However, this

requirement does not make sense because of the private easement issues involved. Horace Brown, County Surveyor, agreed that this condition should not be required.

Barbara Evans agreed with this and said that given the number of people who have interest in this road, the chances aren't very good for the passage of an RSID.

Michael Sehestedt commented that there has been a lot of action involving this road with probably more in the future. Until the road comes into public ownership, there is no way an RSID could be used to pave it. However, in the fullness of time, a request from the residents for an RSID, backed by dedication and donation of the remaining right-of-way, will probably come through. At that time, the County may have to condemn some pieces. As long as there is a condition for a waiver of protest for an RSID to upgrade Sapphire Drive, there should be no problems.

Colleen Dowdall stated that the County probably cannot require labeling the road a public and utility easement on Sapphire Drive.

Michael Sehestedt said this can be required if it is within the subdivision.

Dick Ainsworth stated that this was previously done when they filed the first Von El Estates.

Barbara Evans moved and Fern Hart seconded the motion to adopt the amended plat of Von El Estates Lots 1A, 1B and 1C, based on the finding that there is adequate proof of legal and physical access to this property; based upon the findings of fact in the staff report and subject to compliance with the following conditions:

1. The following shall appear on the face of the plat and in each instrument of conveyance: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owner to waive the right to protest a future RSID for any upgrading of Sapphire Drive, Ruby Court, or Mormon Creek Road and may be used in lieu of their signature on an RSID petition.

2. The developer shall file Property-owner's Articles of Incorporation and By-laws, with proof of filing with the Secretary of State, or the developer shall develop a Road Maintenance Agreement to address private road maintenance. This agreement shall be signed and executed by the owner(s).

3. The easements for Sapphire Drive and Ruby Court shall be labeled "public access and public utility easement."

4. Areas for building sites shall be designated on the plat which allow for the future possibility of further divisions into half-acre lots.

5. The developer shall enter into an agreement with the Missoula Rural Fire District to address water supply. A $50 fee per lot shall be assessed toward the purchase of a large diameter fire hose.

The motion carried on a vote of 2-0.

ADOPTION OF: RESOLUTION OF INTENT TO ADOPT FORT MISSOULA PLAN AMENDMENT

Barbara Evans moved and Fern Hart seconded the motion to postpone action on the Fort Missoula Plan until the Public Meeting on January 5, 1993, based on the fact that the Commissioners haven't had time to consider the matter in depth and there is no urgency to take action. The motion carried on a vote of 2-0.

ADOPTION OF: RESOLUTION OF INTENT TO ADOPT FORT MISSOULA HISTORIC DISTRICT

Philip Maechling, Office of Community Development, explained that a public hearing was held jointly by the City Council and the Board of County Commissioners on December 6, 1993 to receive testimony on the Fort Missoula Historic District. The public hearing portion of the Fort Missoula Historic District is closed. The resolution of intent to adopt the Fort Missoula Historic District is now before the Commissioners for their action. This district is part of the County's special districts in the County Zoning Resolution. It is not an overlay district; it is a zoning district with all of the standards of the P-1 district contained in it.

Michael Sehestedt, Deputy County Attorney, explained that the action of this resolution would create a new zoning district with a new zoning classification which consists of all of the P-1 standards plus some additional standards. This is the only district within Missoula County with these regulations.

Barbara Evans asked Patty Kent to address her comments about an underlying zone and what it would allow.

Patty Kent, Mental Health Center, explained that a PUD (Planned Unit Development) had been suggested as an appropriate mechanism by which to allow visitor and tourist support services in the historic district. In the Zoning Resolution, a PUD is appropriate where a developer needs to do something different or is not permitted in the underlying zoning. Because the County P-1 district permits commercial, recreation, amusement and cultural activities, a question arose regarding visitor and tourist support services. Is this permitted under the zoning? If it is, then a developer would be asking for a PUD for something that is permitted in the underlying zone. A PUD is not appropriate for something that is permitted in the underlying zone.

Michael Sehestedt said a typical reason a PUD is used under the County zoning regulations is the trade-off in which the developer can get increased density and intensity of use and in return gives the County something back. In a residential zone, single family housing is permitted. A developer could submit a PUD proposing clustering and dedication of additional park land. If the PUD was approved, they may obtain an overall density bonus. In the context of using a PUD to provide commercial and support tourist services, he said a PUD could be used to provide that in combination with other uses.

Barbara Evans explained that the Mental Health Center may want to do something else with the property; it has been recommended that they use a PUD to get to the point of allowing tourist and visitor support services.

Patty Kent said her interest in providing visitor and tourist support services is not solely for the Mental Health Center. It was her belief that if this area was to become a growing tourist attraction, it would be a sound planning to provide those services at the Fort instead of requiring someone to go elsewhere.

Barbara Evans stated the process which has been suggested is a PUD.

Patty Kent said the process the OCD staff had proposed was a PUD.

Michael Sehestedt said the proposed zoning resolution or overlay includes among permitted uses those kinds of services. He asked Philip Maechling to provide clarification.

Philip Maechling said the staff's recommended uses were as follows: airports and landing fields are prohibited; medical offices are permitted; community residential facilities serving eight or fewer residences are permitted. The staff recommended that health clubs, business and professional offices and visitor and tourist support services be struck as a permitted uses. He said these would have to come in as Planned Unit Developments which would allow for a second level of review. He said there are no definitions of what tourist and related services are in the regulations.

Michael Sehestedt said if it is not included in the use, then the Commissioners may not be able to review it through the PUD mechanism.

Patty Kent said the confusion arose because of those uses that sound similar to visitor and tourist support services which are permitted in the P-1 zone by special exception permit. As the P-1 zone stands today, it allows, by special exception permit, commercial, recreation, amusement and cultural activity.

Michael Sehestedt suggested language under D--Standards and Criteria which would put development in this area into a review procedure before the Board of County Commissioners.

Barbara Evans referred to the subcommittee's recommended uses by the Planning Board and the Office of Community Development. Were Doris Fischer and Philip Maechling a part of the sub-committee?

Philip Maechling said they served in a capacity of staff support and did not vote as members of the sub-committee.

Barbara Evans said she could support every one of the things in the report by the sub-committee. She said she had no problem with business, professional offices, health clubs, or tourist and visitor support services locating in this area. She wondered if this could be permitted either through a special exception permit or something else. Saving the exterior facades of the historic buildings, but allowing the use of the buildings by compatible businesses, makes good sense. She said they may have a problem because she would support this concept in a motion.

A discussion ensued relative to language suggested by Michael Sehestedt. The Commissioners were concerned and wanted to be sure that anything other than what OCD has recommended would be reviewed by the Commissioners. A question arose as to how the Commissioners could review what goes in this district rather than the Board of Adjustment. If the language was written to require a PUD, the Commissioners would have the ability to review a proposed development.

Barbara Evans asked if business and professional use, and other uses recommended by the subcommittee, could come in under a PUD?

Philip Maechling said they can be proposed under a PUD.

Fern Hart said this gives the Commissioners much more oversight.

Barbara Evans expressed her concern that the language not prohibit anything that might be appropriate in this district.

Michael Sehestedt said anyone could come in now with a proposed PUD.

Fern Hart said the language had to be ironed out because the area is part of the historical district and is to be protected by a 150 foot buffer. The City has annexed and left all but the watertank, the cemetery, the transformer, and the land on which the Mental Health Center sits. These are all within 150 feet of the district; the City does not have jurisdiction.

A discussion followed concerning the jurisdiction of the City. Buildings within the 4 1/2 mile City limit must go to the City to obtain a building permit, but they are not subject to the City's zoning.

Michael Sehestedt said if there are detailed construction regulations which require the consent of the Zoning Officer to construct or demolish or to change any exterior, but permitted the interiors to be used and remodeled without coming through a rezoning, would be a rational move. When a PUD is used, the area is zoned in such a way that it cannot be developed until they come in to get it rezoned.

He said the only real disputed issue is the criteria under D (1) under Standards and Criteria; everything else has been agreed upon. He said if the Commissioners could agree on a formulation of the language, the resolution of intent could be adopted. If agreement cannot be found, then Ann Mary Dussault will have to break the tie. He said the purpose is to protect the character of the area and to retain control of approval of what goes into the area by the Board of County Commissioners. To do this, the applicants will have to rezone. They will have to go through a Planning Board hearing, a hearing before the Commissioners, notice of intent and a 30-day protest period. If the Commissioners feel this is appropriate, then OCD's recommendation could be used. He suggested language that would permit business and professional offices, and visitor and tourist support services if part of a Planned Unit Development.

Barbara Evans agreed with this language, but also wanted health clubs included.

Fern Hart wondered if business and professional offices along with visitor and tourist support services could be reviewed as a special exception?

A discussion followed relative to what Fern Hart and Barbara Evans wanted to include in the language.

Fern Hart expressed concern that a buyer may come in and propose something that will not be and cannot be reviewed well under the proposed regulations. A special exception will be reviewed by the Board of Adjustments.

The following language was discussed: "prohibited and permitted uses shall be as described in Section 2.05 for C-P1 zoning. Any other uses must be reviewed by the Board of County Commissioners for approval." It was concluded that this language would not be permissible; there is a case law pertaining to having special exceptions go from the City Board of Adjustment to the City Council. This was struck down by the High Court.

Barbara Evans suggested language that all uses are allowed or are prohibited based on Section 2.05 for C-P1 zoning and any other desired use must go through the PUD process.

Michael Sehestedt said there is a special exception in place for commercial, recreation, amusement and cultural activity. He said what the Commissioners want is a solid and dependable review mechanism over any significant development in this area. Under the proposed plan, certain architectural features are protected and the area is protected against certain demolitions.

At this time, the Commissioners took a 25 minute break to allow the staff to consider language for the permitted and prohibited uses to allow the Commissioners to review proposed development.

Michael Sehestedt suggested the following language under subsection 1: "Permitted and prohibited uses shall be as described in Section 2.05 for C-P1 zoning with the following exemptions and additions:

a. airports and landing fields are prohibited.
b. commercial recreation, amusement and cultural activities are prohibited except as permitted under one of the following:
   1. medical offices are permitted;
   2. community residential facilities serving eight or fewer residents are permitted; and
   3. business and professional offices, health clubs, commercial recreation, amusement and cultural activity visitor and tourist support services may be proposed as part of a Planned Unit Development application.

This language will allow the Commissioners to look at any proposed uses other than those uses that already existing. The language gives a sense of intent.

Fern Hart referred to B - Definitions (3) Area of Influence, and requested the wording reflect that the County's area of influence is a 150 foot buffer around the district.

Barbara Evans suggested that the wording be as follows: "Area of Influence means a transition zone which lies within 150 feet within any direction from the outmost property line of ownership parcel upon which a designated cultural resource or significant site is located and shall include the parcel of the cultural resource or significant site itself."

Michael Sehestedt explained if the Commissioners vote to approve the amendments and adopt the Resolution of Intent to create, the zoning will be adopted just for the portions of this area which lie outside the City limits.

Philip Maechling said the district boundaries are the same in the City and in the County; the development standards are also the same in the City and the County with the exception of the changes made which were tailored to the County zoning.

Barbara Evans moved and Fern Hart seconded the motion to adopt the Historic District Zone as submitted with the amendments as follows:

Section 5.05 - Fort Missoula Historic District

A. Intent

The purpose of this zone is to provide for the identification, protection, enhancement, perpetuation, and use of improvements, buildings, structures, signs, objects, features, sites, places, and areas within the zone that reflect special elements of the zone's architectural, artistic, cultural, engineering, aesthetic, historical, political, social, and other heritage. These regulations and standards are established for the following reasons:

1. To safeguard the area's heritage by protection of its cultural resources;

2. To provide for appreciation of the area's past;

3. To promote civic and neighborhood pride and a sense of identity based on the area's cultural resources;

4. To enhance the area's visual character by encouraging and regulating the compatibility of architectural elements in the district;

5. To enhance property values and to increase economic and financial benefits to the area and its inhabitants;

6. To attract tourists and visitors to the area;

7. To provide for identification of cultural resources in order to resolve conflicts between preservation and alternative land uses and development.

B. Definitions

1. The Fort Missoula Historic District shall be defined as those lands at Fort Missoula which are on the National Register of Historic Sites, including the cemetery.

2. "Alteration" means any exterior change or modification, through public or private action, of any cultural resource or of any property located within an historic district including, but not limited to, exterior changes to or modification of structure, architectural details or visual characteristics such as surface texture, grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbance of archaeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light

fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.

3. "Area of influence" means a transitional zone which lies wholly or partially within one hundred fifty feet in any direction from the outermost property line of the ownership parcel upon which a designated cultural resource or significant site is located and shall include the parcel of the cultural resource or significant site itself.

4. "Board" means the Board of County Commissioners or their agent.

5. "Cultural resource" means private or public improvements, buildings, structures, signs, features, sites, places, areas or other objects of scientific, aesthetic, educational, cultural, architectural or historical significance to the citizens of the county, and which has been designated a cultural resource pursuant to this section.

6. "Exterior architectural feature means the architectural elements embodying style, design, general arrangement and components of all of the outer surfaces of an improvement, including but not limited to, the type, color and texture of the building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

7. "Historic area" means any area containing improvements which have a special character, historical interest or aesthetic value or which represent one or more architectural periods or styles typical to the history of the area that has been designated an historic district pursuant to this section.

8. "Improvement" means any building, structure, place, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

9. "Preservation" means the identification, study, protection, restoration, rehabilitation, or enhancement of cultural resources.

10. "Review criteria" means standards to be used by the Board of County Commissioners or their agent when reviewing an application for permits pursuant to this section or any other ordinance applicable within the area under review.

C. Procedure

1. In order to preserve the historical integrity of the fort environs, any development or alteration requiring a building permit within the zone must be reviewed by the zoning officer for a Certificate of Appropriateness.

Submission Requirements for Certificate of Appropriateness. Certain information shall be provided to the zoning officer to review prior to granting or denying a Certificate of Appropriateness. All materials to be submitted shall be prepared on 8 1/2' x 11' paper and packaged or bound to fit a standard, letter size file. Applications that involve more voluminous architectural plans and specifications may be accompanied by simplified sketches, details and supporting documentation, on letter size paper, which synthesizes the detailed design documents.

The extent of documentation to be submitted on any project shall be dictated by the scope of the planned alteration and the information reasonably necessary for the zoning officer to make her determination. At a minimum, the following items shall be included in the submission:

A. Completed application on form provided by the Office of Community Development.

B. One current picture of each elevation of each structure planned to be altered and such additional pictures of the specific elements of the structure or property to be altered that will clearly express the nature and extent of change planned. Except when otherwise recommended, no more than eight (8) pictures should be submitted and all pictures shall be mounted on letter size sheets and clearly annotated with the property address, elevation direction (N,S,E,W) and relevant information.

C. Site sketch, oriented with north at the top of the page, approximately to scale; showing site boundaries, street and alley frontages with names, and location of all structures with distances to the nearest foot between buildings and from buildings to property lines.

D. Historical information, including available data such as pictures, plans, authenticated verbal records and similar research documentation that may be relevant to the planned alteration.

E. Plans, sketches, pictures, specifications and other data that will clearly express the applicant's proposed alterations.

F. A schedule of planned actions that will lead to the completed alterations.

G. Such other information as may be suggested by the Office of Community Development.

H. It is further suggested that the applicant seek comments from the neighborhood or area.

2. It is unlawful for any person to tear down, demolish, construct, alter, or relocate any improvement, or any portion thereof, or to alter in any manner any exterior architectural feature, or to place, erect, alter, or relocate any sign, of a designated cultural resource or located within an area of influence of a cultural resource included in this zone without first obtaining a Certificate of Appropriateness.

3. Any application for a permit for erection or construction of a new building or structure, or which would affect the exterior appearance of any existing building or structure (including signs) located within an area of influence shall require review by the zoning officer in accordance with the criteria adopted for this zone.

a. If the Certificate of Appropriateness is granted by the zoning officer, all requirements of this section will have been met.

b. Any Certificate of Appropriateness that is denied by the zoning officer pursuant to the provisions of this section shall be automatically referred to the Board of County Commissioners or their agent upon the written request of the applicant and scheduled for public hearing at the next regularly scheduled meeting at which legal notice can be provided.

4. Appeals Process. Appeals of decisions made under this section shall be made to the Board of Adjustment following the procedure described in Section 8.15 of these regulations.

D. Standards and Criteria

All structures must be built with the consideration that they are in an historic district. The following standards are criteria by which the zoning officer or Board of County Commissioners or their agent shall review applications for a Certificate of Appropriateness:

1. Permitted and prohibited uses shall be as described in Section 2.05 for C-P1 zoning with the following exemptions and additions:

a. airports and landing fields are prohibited,

b. commercial recreation, amusement and cultural activities are prohibited except as permitted under 1 of the following:

c. medical offices are permitted,

d. community residential facilities serving eight or fewer residents are permitted,

e. business and professional offices, health clubs, commercial recreation, amusement and cultural activity visitor and tourist support services may be proposed as part of a Planned Unit Development application.

2. The historical and architectural characteristics of a historic structure which make it unique shall be properly preserved and any changes shall generally conform to the character of the structures located within the zone;

3. No specific architectural style shall be required for the design of a new building or other structures that have not been designated a cultural resource; however, such buildings and structures are subject to the following:

a. The design of the structure shall generally conform to the character of the buildings and structures located within the zone,

b. If the building is demolished and the area left vacant, the area shall be maintained in a clean and inoffensive manner,

c. If the building is demolished and the area converted to another use not requiring buildings (such as a parking lot), the area shall be buffered by landscaping or have walls or fences that generally conform to the character of the other buildings and structures located within the zone.

d. If the building is demolished and new structures erected, the design shall be sympathetic to the character of structures and features located within the historic zone;

4. The following criteria shall be used by the zoning officer when approving a Certificate of Appropriateness:

a. Height: Absent of showing exceptional mitigating circumstances, new structures may be constructed no higher than the tallest building located within the zone at the time of establishment of the zone;

b. Setbacks: Absent of showing exceptional mitigating circumstances, new structures shall generally conform to the prevailing setback existing within the zone at the establishment of the zone;

c. Proportion: The relationship between the height and width of the front elevation of the building;

d. Recurrent alternation of solids to voids in the front facade;

DECEMBER 22, 1993 (CONT.)

e. Roof types;

f. Surface texture of buildings;

g. Site utilization: The width of side yards as it affects the spacing between individual buildings and structures;

h. Projections and recessions: The presence or absence of porches, steps, awnings, overhangs, etc.;

i. Architectural details: Cornices, lintels, arches, grill work, shutters, etc.

j. The criteria and standards included in Appendix A: "Development Guidelines and Standards for the Fort Missoula Historic District."

E. Designated Cultural Resources Within the Zone

The regulatory area is that area on the National Register of Historic Sites, including the cemetery, as listed by the US National Park Service, 1987.

F. Maintenance Requirement

1. The owner, occupant, or persons in charge of a cultural resource or an improvement, building or structure in this zone shall keep in good repair all of the exterior portions of an improvement, building or structure, all of the interior portions thereof when subject to control as specified in the designating ordinance or permit, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.

2. However, nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this ordinance that does not involve a change in design, material or external appearance, nor does this ordinance prevent the construction, reconstruction, alteration, restoration, demolition or removal of any feature when the building inspector certifies to the Board that such action is required for the public safety due to unsafe or dangerous condition.

G. Demolition of a Designated Cultural Resource

1. In the review of a permit sought to demolish or remove a designated cultural resource, the board may approve or disprove the permit. In making its decision, the board shall determine if the applicant has shown that the preservation of the structure(s) is physically and/or economically infeasible, and that the denial of a permit would constitute a hardship.

2. If the board finds that the denial of a permit would result in a hardship to the owner, the permit shall be granted if:

a. Within one hundred eighty days, after denial of a permit, the board and the owner all in good faith cannot provide alternatives or funding for improvements, which would make demolition unnecessary; or,

b. The board has required the owner to put the property up for sale for a period of time after he denial of a permit (one hundred eighty days for a designated cultural resource, and ninety days in the case of all other structures within an area of influence) in an attempt to save the property before granting a demolition permit and no investor can be attracted to purchase the property at fair market value.

Related Community Plans and Guidelines. The Fort Missoula Plan, 1993 Update, and the application for the National Register of Historic Places Inventory (1987) provide information about the nature of the site and buildings in the area. In addition, the area is discussed in the Missoula Urban Comprehensive Plan, 1990 Update, and the Report to Missoula: $16,000 Pilot Project, Park/Open Space/Resource Planning and Management.

The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 3:10 p.m.

DECEMBER 23, 1993

The Board of County Commissioners did not meet in regular session. Barbara Evans and Fern Hart were out of the office all day.

DECEMBER 24, 1993

The Courthouse was closed in observance of the Christmas Day holiday.

DECEMBER 24, 1993 (CONT.)

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

DECEMBER 27, 1993

The Board of County Commissioners met in regular session. Fern Hart was on vacation the week of December 27th through the 31st. A quorum of the Board was present in the afternoon. Barbara Evans was out of the office until noon.

DECEMBER 28, 1993

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

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Kit Baylor as principal for warrant #17278, dated November 17, 1993, issued on the School District #1 Adult Education fund in the amount of $50.00 now unable to be found.

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming United Parcel Service as principal for warrant #16066, dated September 29, 1993, issued on the School District #1 general fund in the amount of $131.51 now unable to be found.

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Carol Shaffner as principal for warrant #12471, dated December 20, 1993, issued on the Hellgate Elementary School District #4 payroll fund in the amount of $1,393.15 now unable to be found.

DECEMBER 29, 1993

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

Audit Lists

Commissioners Dussault and Evans signed two Audit Lists, dated December 28 and 29, 1993, with a grand total of $3,175.00 and $111,340.00 respectively. The Audit Lists were returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Contract

The Board of County Commissioners signed a Contract between Missoula County and Green Diamond Excavating for the purpose of construction, installation and completion of the Hendricksen Drive Sewer Extension - RSID #8456, as per the terms set forth, for a total sum of $39,447.00. The Contract was returned to Jesse Sattley, RSID Coordinator, for further handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Shannon H. Jahrig, an independent contractor, for the purpose of producing 31 charts, graphs or tables from organized data provided by the Health Department, as per the terms set forth, commencing December 27, 1993, through January 7, 1994, for a total sum of $775.00. The Contract was returned to the Health Department for further signatures and handling.

DECEMBER 29, 1993 (CONT.)

Subdivision Improvements Agreement and Guarantee

The Board of County Commissioners signed a Subdivision Improvements Agreement and Guarantee between Missoula County and Vern S. Young, for the purpose of guaranteeing that the mailbox pull-out improvement, at an estimated cost of $5,000.00, specified as a condition of approval for the Meadow Heights of Grant Creek and Meadows of Grant Creek subdivisions pursuant to the Glen Eagle Conservation and Development Plan adopted by Missoula County will be completed no later than January 1, 1995, and that a Certificate of Deposit in the amount of $5,000 has been escrowed with First American Title Company as security for completing this Agreement.

Plat and Declaration of Covenant

The Board of County Commissioners signed the Plat for Meadow Heights of Grant Creek, a subdivision plat located in the E1/2 of Section 32, T14N, R19W, PMM, Missoula County, a total area of 20.689 acres, with the owner of record being Phil Young. The Commissioners also signed a Declaration of Covenant, whereby the owner, Phil Young, declares that: Lots 1, 2, 3, and 4 of Meadow Heights of Grant Creek, a recorded subdivision of Missoula County shall never be subdivided into lots smaller than five (5) acres and that all lots in Meadow Heights of Grant Creek Doherty Tracts shall be used for single-family dwellings; and that if revocation ever takes place, the park money that would have been paid at the time of cash-in-lieu will be paid upon revocation.

Plat and Declaration of Covenant

The Board of County Commissioners signed the Plat for the Meadows of Grant Creek, a subdivision plat located in the E1/2 of Section 32, T14N, R19W, PMM, Missoula County, a total area of 20.468 acres, with the owner of record being Vern Young. The Commissioners also signed a Declaration of Covenant, whereby the owner, Vern Young, declares that: Lots 1, 2, 3, and 4 of the Meadows of Grant Creek, a recorded subdivision of Missoula County, shall never be subdivided into lots smaller than five (5) acres and that all lots in the Meadows of Grant Creek Doherty Tracts shall be used for single family dwellings; and that if revocation ever takes place, the park money that would have been paid at the time of cash-in-lieu will be paid upon revocation.

Resolution No. 93-095

The Board of County Commissioners signed Resolution No. 93-095, a resolution of intent to create a special County Zoning District and to apply this zoning district to property known as the Fort Missoula Historic District. The Fort Missoula Historic District is located in Section 36, T13N, R20W, and a portion of Section 31 T13N, R19W, and is specifically that area included in the nomination to the National Register of Historic Places (National Park Service and Missoula County 1987). The rezoning includes various tracts as shown on the map exhibit attached to the Resolution.

Professional Services Contracts

The Board of County Commissioners signed nine (9) Professional Services Contracts between Missoula County and Damian Charette, John Wylie, Jennifer Rudio Ogden, Lulu Yee, Barbara J. Compton, Bev Beck Glueckert, Margaret Baldwin, Philip A. Zemke, and Darryl Fortkamp, independent contractors, for the purpose of planning, acquiring supplies, instruction and clean-up for classes offered to the public by the Missoula Museum of the Arts, as per the terms set forth, for the period commencing January 1, 1994, through December 30, 1994, as required by class schedules, for compensation in the amount of $10.00 per hour or $7.50 per hour when co-taught.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and the Missoula City Parking Commission (MPC) for the purpose of having MPC monitor and enforce motor vehicle parking regulations in the County's parking lots in the 200 and 300 blocks of West Alder in the City of Missoula, as per the terms set forth, with payment being $2,000 per calendar year, for a period of five years, with the option to extend or renew the Agreement pursuant to terms mutually agreeable to and negotiated by the parties. The Agreement was forwarded to Anne Guest, Director of the Parking Commission, for further signatures and handling.

Replacement Bond

Chair Dussault signed bond #60 in the amount of $10,000.00 for the County of Missoula, Hospital Revenue Refunding & Improvement Bond, Series 1978, 7.125%, due 6/1/07 (Missoula County Hospital Project) to

DECEMBER 29, 1993 (CONT.)

replace Missoula County Hospital 1978 RV IMP Bond #51 at 7.125%. The Bond was returned to First Interstate Bank.

Other items included:

the Commissioners reappointed Mike Chandler to a three year term on the Weed Control Board through December 31, 1996.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting scheduled for this date was canceled due to the holidays and lack of agenda items.

DECEMBER 30, 1993

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

DECEMBER 31, 1993

The Courthouse was closed in observance of the New Year's Day holiday.

Vickie M. Zeier
Clerk and Recorder

Ann Mary Dussault, Chair
Board of County Commissioners

JANUARY 3, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Fern Hart was on vacation. In the evening, the Commissioners attended the EDA Concept Team meetings held at the Holiday Inn.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-001

The Board of County Commissioners signed Resolution No. 94-001, a resolution to adopt the revised Missoula County Personnel Policies and Addenda, superseding all other Personnel Policies and Amendments, effective January 4, 1994. The Resolution was returned to John Pemberton in Personnel for further handling.

Replacement Bonds

Acting Chair Dussault signed a Bond #R16 in the amount of $5,000.00 and Bond #R17 for $5,000.00 for the County of Missoula, Medical Office Building Revenue Bond Series 1978, 7.25%, due on June 1, 1997 (Missoula Community Hospital Project); these Bonds replace Bearer Bonds #119 and 120 respectively. The Replacement Bonds were returned to First Interstate Bank for further handling.

Other items included:

> the Commissioners appointed the following as interim members of the proposed Lolo Community Council: Peggy Chilcote, Ty Evenson, Peter Templeton, Don Kurtz, Lonnie Underhill, Matthew Anderson-Robertson, and Kerrie Brandoff; Peggy Chilcote and Peter Templeton will serve as temporary co-chairs (conveners), and John DeVore will be the Commissioners' liaison to the Community Council.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 4, 1994

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

Audit List

The Board of County Commissioners signed the Audit List, dated January 3, 1994, pages 2-26, with a grand total of $154,046.30. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Agreement to Sell and Purchase & Addendum No. 1

The Board of County Commissioner signed an Agreement to Sell and Purchase between Missoula County and Thomas Joseph and Kathleen Marie Garland for Lot 6, Block 3 in Mountain Shadows No. 1, for a total purchase price of $17,500.00, subject to the terms and special provisions set forth. The Commissioners also signed an Addendum to the Agreement, whereby the parties agree that the sale is contingent upon the review and approval of the covenants and restrictions on this land by the purchasers by 12/29/93, and the sellers are to show the exact location of the property corners and boundaries for review and approval of the purchaser by 12/29/93 The Agreement was returned to Scott Hollenbeck at Properties 2000 for further handling. The documents were returned to Scott Hollenbeck at Properties 2000 for further handling.

Addendum to Travel Policy

The Board of County Commissioners signed an Addendum to Policy 88-A, Travel Policy, increasing the mileage reimbursement to 29 cents per mile for 1994 for the first 1,000 miles traveled. The Addendum was distributed to all County Departments.

JANUARY 4, 1994 (CONT.)

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 5, 1994

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

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Bakery and Restaurant, Inc. as principal for warrant #13437, dated October 6, 1993, issued on the School District No. 4 Food Service fund in the amount of $114.55 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-002

The Board of County Commissioners signed Resolution No. 94-002, a resolution of intention to create Rural Special Improvement District No. 8457 for the construction of roadway improvements to portions of Humble and Sundown Roads, Missoula County, as per the terms and items set forth. The Resolution was returned to Jesse Sattley, RSID Coordinator, for further handling.

Resolution No. 94-003

The Board of County Commissioners signed Resolution No. 94-003, a resolution to accept real property by an easement from the Missoula Cartage Company Inc. Book 82 Micro Page 314, Waldo W. Williams and Doris L. Williams Book 82 Micro Page 315, Geneva Cates Book 82 Micro Page 316, and Robert W. Hagan and Dorothy H. Hagan Book 82 Micro Page 317, for public road and all other public purposes (Waldo Road) located in a portion of Sections 16, 17, 20, 21, Township 14 North, Range 20 West, Principal Meridian, Montana, Missoula County, as shown on Certificate of Survey No. 711.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order by Chair Fern Hart. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

BID AWARD: ROOF STRUCTURE - 140' X 100' (FAIR) POSTPONED FROM 12-22-93

Fern Hart explained that the bid award for the 140' x 100' metal structure for the Fair had been postponed at the Public Meeting on December 22nd in order to give the Fair Board time to obtain an opinion from a qualified engineer concerning the specifications for the roof by Iroquois Industrial, Inc. and Structural Systems. Iroquois Industrial had the low bid of $122,800.00 and Structural Systems bid was $131,500.00.

She explained that the Fair Manager, Sam Yewusiak, had received a letter from Franklin Muth of Muth Consulting Engineers concerning their recommendation: "The Butler system uses lock rivets for fastening and the Garco system uses self-drilling screws. Neither system provides any more advantage for accommodating expansion and contraction since both are attached to the purlin in a similar fixed fashion. The technical specifications do not specify one system or the other and both systems supply a 10 year warranty. The lock rivet system appears to be superior in that over tightening is avoided, but the self-drilling screw is the typical connector in metal building construction and has performed well in past installations. It is our opinion that either system will provide an adequate roof panel attachment to the structure, and both systems are capable of resisting the required up-lift loading."

Barbara Evans said that because there was no structural difference, there is no reason to deny the award of the bid to the lowest bidder.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bid for the 140' x 100' metal structure for the Fairgrounds to Iroquois Industrial, Inc., in the amount of $122,800.00, based on the recommendation of Muth Consulting Engineers. The motion carried on a vote of 3-0.

ADOPTION OF: RESOLUTION OF INTENT TO ADOPT FORT MISSOULA PLAN AMENDMENT

Colleen Dowdall, Deputy County Attorney, explained that a public hearing was held on December 6, 1993, on the Fort Missoula Plan Amendment. The testimony portion of the hearing is closed. At today's meeting, a determination may be made as to whether or not to adopt the Fort Missoula Plan.

Fern Hart stated she had received calls urging the Board not to adopt the proposed subdivision. She explained the City has annexed the land and has approved the development; the County cannot take action on the subdivision. The Board will make the decision whether or not to apply the plan to the County's land outside of the City's land.

Barbara Evans explained that there were three parts to the Fort Missoula process; 1) the historic overlay; 2) the Comp Plan amendment; and 3) the Divot development proposal. She said the matter today before the Board is the Comp Plan amendment; however, she recommended that action on the amendment be postponed for one week.

Barbara Evans moved and Ann Mary Dussault seconded the motion to delay adoption of the Fort Missoula Plan amendment for one week. The motion carried on a vote of 3-0.

Ann Mary Dussault stated that the purpose in delaying the decision on the plan amendment was to allow the Board one more week to review some issues relative to the plan. The first time the Board heard this matter was yesterday.

HEARING: COMP PLAN AMENDMENT - BUTLER CREEK AREA

Tim Hall, Rural Planning Office, explained the purpose of this hearing was to provide final information on the Butler Creek Comprehensive Plan Amendment. There was a hearing on the 21st of December before the Missoula Consolidated Planning Board. They recommended that the Board of County Commissioners approve the Comp Plan amendment.

He explained the purpose of the Butler Creek Comp Plan effort: In 1991, Missoula County acquired 446 acres of industrial zoned land between the Missoula County International Airport and Interstate 90. Simultaneously, the County and community leaders pursued an interchange alignment from Interstate 90 to the airport and the Butler Creek vicinity. The Federal Highway Administration has funded the Interchange and the planning and design phases of the interchange are in progress. Construction is expected to commence sometime in the 1994 building season. Missoula County Commissioners, realizing that the development of industrial land and the placement of the highway interchange in close proximity to Butler Creek would undoubtedly impact this drainage. This, combined with the overall reality of increasing development pressures and the need for housing in the Missoula valley, prompted the Commissioners to request the Rural Planning Office to complete a Butler Creek Comprehensive Plan in 1993. Residents and property owners within the study area have participated in the development of this plan in a number of stages and in open public meetings.

Items that are addressed in the plan include 1) basic study area location; 2) previous planning efforts. In 1975, the area became part of the county-wide Missoula Comprehensive Plan which was updated in 1990. Portions of the area are included in the updates. 3) Historical land uses; 4) present land uses; and 5) possible future land uses. The following use goals were developed through the recommendations by the staff and incorporation of citizen comments that took place at the two public meetings at Desmet School: 1) provide opportunities for public discussion and recommendations for specific proposals; 2) reduce the potential water pollution, groundwater and surface water; 3) minimize air pollution; 4) preserve scenic views; 5) create open space corridors along creeks; 6) preserve existing wildlife habitat and riparian areas; 7) preserve existing habitat and landscaping and encourage enhancement with endemic species and weed control; 8) improve traffic flow while minimizing effects on existing property owners by recommending appropriate development; 9) where desirable, include pedestrian and bicycle trails or corridors into plan in conjunction with other appropriate planning documents; 10) new development should be compatible with existing land uses such as the rural character and open space in Butler Creek; 11) promote the best use of land for residential, commercial, industrial, open space and other types of development consistent with the goals of landowners, residents and visitors; 12) provide opportunities for voluntary land use preservation techniques such as easements, agricultural covenants, etc. by the private sector; and 13) preserve and enhance the health, safety and welfare of Butler Creek and Missoula County residents, participate in the development of fire contingency plans and Yellowstone Pipeline hazardous material emergency plans.

He explained that also included in the Appendix of the document are a list of issues that were created at the two public meetings; there are approximately 30 different issues identified which were incorporated into recommendations, the body of the plan and also into the land use goals of the document. The issues included water quantity/quality; surface and ground water; traffic, dust and noise; the conditions of the existing road; wildlife; sewage and septic systems; housing densities; clustering versus large lot subdivisions; open space;

overall land uses; Desmet School and impacts to the school; the tax increment district; riparian zones; maintaining the overall character of the area; a possible citizen control for future planning in the drainage such as citizen initiated zoning or zoning efforts; air quality; light pollution such as lights around houses at night; electronic pollution such as radar and electronic transmitters; concern about the US Forest Service lands to the north and the plans for those adjacent properties; concerns about the airport and how this might be affect the Butler Creek drainage; concerns about the interchange; concerns about the Yellowstone Pipeline; concerns about logging, both the US Forest Service and private lands to the north; concerns about Grant Creek access onto Snowbowl Road; concerns about fire protection; the impacts of the Snowbowl Ski Area; housing within the Tax Increment District; enforcement through homeowner association covenants; the Airport Comprehensive Plan; the expressway planned to go across the new Missoula County development park land; zoning; financial pressures on large land owners versus subsidizing the large landowners for their agricultural operations; and the cost of supporting infrastructure to rural areas. These issues came from the two public meetings held at Desmet School on April 29, 1993 and August 12, 1993. He said he has met with the neighborhood association on a number of occasions to discuss issues that have also been incorporated into the plan.

At this time, he highlighted the baseline data from maps provided by the Surveyor's Office. The first map was a 1989 aerial photograph of the area and the boundaries of the study area. The area included 12,000 acres. The southern boundary is Interstate 90; the northern boundary is the reservation divide.

The second map was a floodplain map which showed existing floodplain data. Lavelle Creek has only been studied to a certain point, so data is only available to a point. He recommended that if development occurred in these areas, the floodplain should be determined.

He referred to the map of the Water Quality District and a map of the sole source aquifer in the packet. Any type of development that would impact water quality in the area should be deferred to the City-County Health Department for review in accordance with the regulations of the Water Quality District.

The next map was a geology map dealing with various geologic zones in the area. One area in particular is subject to landslide activity. According to local and state scientists, the area will not slump if is not disturbed. This could impact development in these areas.

He next reviewed a map of the soils in the area. There are 31 different and specific soils in the study area. A list of the soils and the limitations of the soils are included in the plan. This information was collected from Soil Conservation data.

The next two maps were slope analysis maps. The 3-D maps took a great deal of time to create. The first of the two maps showed section lines and actual ownership divisions, roads and percentage of slope as well as what areas are not developable. The map showed a little over 52% of the drainage as being undevelopable based on slope only. Most of this property is in the US Forest Service ownership. There are some areas in the lower portion of the drainage greater than 25%. The other map was created on a geographic information system by the University of Montana for Missoula County. The map showed the same sort of breakup of information as the first map.

Another item that will be incorporated in the plan is a breakdown of ownership by acreage into certain categories; private ownership, 51% or 5,700 acres; US Forest Service, 39% or 4,390 acres Conservation Easement, 730 acres; Snowbowl Ski Area, 80 acres including 1,100 acres on US Forest Service lands with 198 acres presently developed for skiing; and State Lands, 192 acres or 2% of the study area.

An analysis completed by the Surveyor's Office showed the amount of land broken up by ownership that is developable based on slope. From this, less than 4,000 acres of privately owned land is developable; this equates to 69% of the privately owned land is developable.

The next two maps showed the recommended densities for the study area. Due to the soils in the area, the densities will vary somewhat. If development occurs, the nitrate levels in these areas must be checked on a site-by-site basis because they are extremely variable.

The last map included in the Plan showed the big game winter range area. A significant portion of the lower half of the drainage area is delineated by the Fish, Wildlife and Parks, as being big game winter range.

He explained that there is a theme to the document as directed by the citizens of Missoula County and the Commissioners, which was to create a document that was conservation based. This means that development would occur in conjunction with resource protection for the drainage based on site appropriateness determined by analyzing a number of criteria. A certain number of variables must be looked at on a site-by-site basis before development can occur. These variables include, but are not limited to: slope, soils, habitat, winter range, fishery impacts, floodplain, geology, landslide areas, historic and cultural resources that may exist, open space resources, etc. The recommendations in the document echo this theme time and again.

The recommendations were as follows:

IV. **RECOMMENDATIONS**

The recommendations that follow address the goals that were outlined in section **I-G.** of this plan. (Note that some goals have been combined due to similar recommendations for action.)

1.& 11. **Opportunities for Public Discussion/Promote Consistent Development**: The residents of the study area have the ability to participate in the public review process of any development proposal. The neighbors could use this ability to encourage developers and future land owners to preserve the character of the area and work with existing owners.
Recommendation:

The neighborhood association should become registered with the City/County Office of Community Development, which will automatically inform them of the public comment period for any potential land use issue in the study area.

2. **Reduce Potential Water Pollution**: To satisfy this goal the residents of the study area, both now and in the future, need to ensure that land use practices do not adversely affect water resources of LaValle or Butler Creek, which includes the aquifer that the residents tap for household water supply. The Missoula Valley Water Quality District, with the recommendations and advisory roles it provides, can serve as a tool for improving and protecting the water resources of the Valley and the study area.

Another means of protecting the surface waters of LaValle and Butler Creeks would be to contact the US Department of Agriculture Soil Conservation Service for specific site planning methods for creeks and adjacent lands.

Recommendations:

Ensure that properly operating household septic systems are in place and maintained regularly.

Prohibit concentrated stock watering areas and crossings in Butler and LaValle Creeks on parcels less than 20 acres.
Maintain foliage and brush in riparian zones and floodplains to hold soil in place, prevent erosion, and serve as flood control during seasonal high water periods. Vegetation also assists the biological resources that use the riparian corridor.

In those cases where large tracts are proposed for development, creation of a community-type system for water and sewer, incorporating best technologies for gray water (used sink, bathtub, clothes washer water) recycling for irrigation (land application) is encouraged. If effluent from toilets is to be used in land application, then primary treatment must first take place.

Connections to the City of Missoula Wastewater Treatment Plant by sewer main hookup should be investigated for any high density development in the southern portion of the study area.

3. **Minimize Air Pollution**: The air pollution in the study area can be attributed to dust from Butler Creek Road and LaValle Creek Road as well as to smoke from fireplaces and woodstoves. Another source of visible pollution identified in the issues meetings is light pollution: glare from outside lights during night hours.

Recommendations:

A dust abatement program should be initiated to decrease the air quality problem arising from travel on existing unpaved roads.

As the population of the study area grows and traffic on the gravel roads increases and as financial resources become available, consideration should be given to paving the roads which would reduce the road dust problem.

In conjunction with any development in the study area, developers should be required to make road improvements such as paving that will meet or exceed the proposed needs of the development. Such improvements should meet Missoula County Road specifications.

New developments in the study area are required to adhere to the City/County Health Department regulations when installing woodstoves in residences within the Missoula Valley Air Stagnation Zone (Airshed). In order to obtain a building permit for new construction in the portion of the study area within the defined 4 1/2 mile urban area (> 95% of area), the City/County Health Department must issue a permit stating that a Class I or Class II woodstove is being installed.

Residents in the study area should be encouraged to use directional or motion detecting night lights to preserve the night sky view from their property and reduce the amount of light pollution.

4. **Preserve Scenic Views**: The residents in the study area consistently stated that they wanted to preserve the "rural character" and scenic quality of the study area. The Missoula County Inventory of Conservation Resources indicates that a significant portion of the study area is considered scenic open space as viewed from major roads, waterbodies and the urban area. The creek corridors are also considered significant open spaces. The open hillsides and unobstructed ridgeline views provide the character of this unpopulated area. The challenge before the owners, residents and potential developers is to maintain the "rural feeling" that exists in the study area while allowing for some limited development in areas that are best suited for a change in land use.

Recommendations:

Residents and developers should not build on the ridgelines or have visible structures that break existing horizon lines. Limitations due to slope, soil type and geology should be analyzed when considering hillside development.

Natural land features such as streams, hillsides, rock formations, and unique vegetation should be used as strong design determinants (dictate the scale and placement of development) for any development proposal. These features should be incorporated into the planned development to enhance the visual quality of the proposal and provide opportunities for open space and recreational use.

Not only will future homes impact the appearance of the area, but the infrastructure that residential development requires also has a serious impact on appearance. Roads, powerlines and fences all will potentially degrade the scenic nature of the area. Consideration should be given to the appropriate placement of these improvements. Utility lines should be placed underground wherever feasible.

Methods for permanently preserving identified scenic views and preventing development should be investigated. Placing a perpetual conservation easement on property is one method of protecting unique areas and views.

Clustering homes in areas that can sustain more intense development pressures in conjunction with open space/agricultural land preservation should be encouraged. Agricultural operations, not excluding small scale community gardens, hay production, limited grazing etc. should be incorporated into proposals.

Clustering should only occur in areas that can sustain the proposed density when taking into account other land characteristics such as soils, slope, wildlife habitat and surrounding land uses.

Exterior fencing should be limited to the immediate surrounding site locale which will blend landscapes rather than fragment landscapes and preserve the open appearance and of the landscape and allow free movement for wildlife species.

Agricultural operations should be encouraged to continue to operate in conjunction with limited development proposals. Agricultural uses and the "working landscape" that they create were identified as acceptable means for preserving the open space and rural character of the study area.

Transitional buffer areas, uses and densities (permanent landscaping, walkways/bike paths, gardens, etc.) should be placed between converted agricultural land and proposed developments to soften the changes in land use.

Developments should take into account natural limiting conditions such as slope, floodplains, drainage ways and other sensitive features, and minimize site disturbance to maintain the natural state of these areas.

Development should not be permitted on areas noted as being highly susceptible to "sliding" or slope failure.

All disturbances created by developing roads and underground utility lines should be revegetated within one year or sooner and returned to a near natural grade to prevent erosion and lessen the visual impact of unreclaimed areas created by the improvements.

Graded slopes should avoid a manufactured appearance and should mimic the original slope of the hillside as much as possible.

Native vegetation should be used to revegetate and reclaim areas disturbed by development, recreating the natural look and preserving the scenic quality of the area.

5. **Create Open Space Preserve Corridors along Creeks**: Through the creation of open space corridors (buffer areas) along the creeks a number of land use goals can be accomplished: scenic views, significant open space values, riparian wildlife and fishery habitat all can be protected.

Recommendations:

Corridors along the creeks should remain in their native state.

Consultation with Department of Fish, Wildlife and Parks biologists should occur to determine the present conditions and possible enhancements that could benefit the wildlife and fisheries using the creeks and corridors.

Wherever possible county floodplain maps should be used to identify the stream corridors. Floodplain regulations must be adhered to.

Developing appropriate non-motorized trails adjacent to the creek corridors should occur, but only in areas not adversely impacting wildlife habitat.

6 & 7. **Preserve Existing Wildlife Habitat and Riparian Areas**: Significant portions of the study area serve as winter range habitat for elk, mule deer and whitetail deer. Other species such as black bear, mountain lion, and a multitude of song birds and small mammals also inhabit the area.

"Attractant" sites often accompany development, and have significant impacts on wildlife and their habitats. Both prey and predator species may be enticed into developed areas unless precautions are taken.

Recommendations:

Development in areas identified as winter range should be strongly discouraged or limited to areas that are not considered prime habitat.

Seasonal use restrictions should be developed and applied to the areas identified as critical winter range.

Vegetation and dead standing trees (snags) should not be removed from the riparian area. This will encourage cavity nesting birds, perching and nesting raptors and mammals to inhabit these micro-habitats. Larger mammals also benefit from the hiding cover and food which vegetation provides.

Every effort should be made to preserve identified wildlife corridors within the developed areas.

Domestic animals and pets should be properly restricted away from wildlife to avoid potential confrontations and habitat displacement.

Residential "attractants" such as gardens and compost piles should be fenced appropriately. Barbecue grills should be cleaned regularly and stored inside. Pet food should be stored and served indoors when possible. If food for pets or stock (horses, goats etc.) is stored outdoors, it should be stored in a wildlife-resilient container.

Whenever possible, native species should be planted and used in landscaping developments.

An aggressive attempt to control the spread of noxious weeds in the study area should be initiated.

8 & 9. **Improve Traffic Flow and Minimize Effects/Include Pedestrian and Bicycle Trails**: As more homes are built in the study area a corresponding increase in traffic will follow.

Recommendations:

The number of new and existing approaches onto the existing County roads should be consolidated in an effort to increase traffic safety.

When population increases and studies of road usage indicates the need, improvements to the roads such as widening and paving should occur in the best interest of overall safety for the residents.

As improvements to the existing roads are made, accommodations for adjacent pedestrian and bicycle routes should be incorporated into the development. These improvements would be beneficial for children en route to DeSmet School. They encourage others to commute safely to work; reduce motorized transportation trips; and complement a developing network of non-motorized routes in the Missoula Valley.

Any planning and design work for a Butler Creek Road railroad overpass onto Highway 10 should be phased so that improvements will be in place and operational at the time of the closing of the at grade crossing. Residents should be made aware of the potential improvements on Butler Creek Road. Required rights-of-way should be acquired.

10. **Compatible New Development**: Due to the relatively undeveloped nature of the study area, opportunities to develop compatible transitions (limited development built in conjunction with the natural landscape) in land use exist. The close proximity to the urban area and present growth patterns and needs for housing in the Missoula Valley, indicate that it is in the best interest of Missoula County to encourage appropriate development, as defined in the recommendations of this plan, for the study area.

Many of the owners of large agricultural parcels of land in the study area are finding it more and more difficult to maintain and operate their ranches. As development occurs, less land is available for leasing and pasturing resulting in a reduction of accessible open lands which are needed to run a profitable operation. Bearing this in mind, many of these same owners have investigated their options regarding the future of their lands, including potential development.

Recommendations:

Development should occur in a sensitive manner taking into account natural characteristics of the land such as soils, slope, geology, water resources and wildlife habitat.

Affordable housing, as defined by the Missoula Housing Task Force, should be incorporated into any large scale development proposals for the study area.

Great care should be given to siting and building homes that compliment the "rural character" of the study area giving special attention to the natural characteristics of the land such as slope, aspect, soils, wildlife habitat, geology as well as other attributes.

Proper densities for development shall be determined by the overall carrying capacity of the sites proposed. Maximum densities shall not exceed present City/County Health Department regulations and limitations on septic system location and density.

Development of community systems for sewer and water systems is encouraged.

Developing systems that will re-use gray water from community sewer systems and redistribute it for use as irrigation water (land application) should be encouraged. Given the variable nature of characteristics such as soils, geology, slope and wildlife habitat, proposed densities must be investigated for appropriateness.

Clustering of homes in patterns that are complementary to the natural landscape of the site should occur whenever possible. This will assist in maintaining the scenic open landscape of the study area.

The number of allowable "clustered" building sites should comply with the overall density recommendations for the parcel.

Areas presently recommended for densities of one (1) house per 5 - 10 acres in the 1990 Urban Comprehensive Plan Update should remain in effect. A site specific soils analysis must be completed and analyzed for proposals in the designated higher density areas to determine the appropriate density due the extreme variability of the soils in this area. Determinations based on the soils analysis should act as the development density guide for this area.

Increased densities may be appropriate when clustering homesites and leaving buffer areas and open space reserves to complement the proposal. Clustering homes and community systems can potentially defer the limitations based on soils and septic system density requirements.

Based on preliminary nitrate level studies and modeling done by the City/County Health Department in conjunction with the Missoula County Carrying Capacity and Cumulative Effects study, a majority of the study area can not sustain densities greater than one (1) unit per five (5) acres to one (1) unit per ten (10) acres. This is taking into account conventional development with individual septic systems for each site.

The extension of municipal sewer lines and development of community water systems in the study area will increase the carrying capacity of the land. The subsequent density of these serviced areas would increase accordingly and meet accepted best use development standards. It would be quite possible to accommodate three (3) single family units per one (1) acre with infrastructure.

Densities could increase beyond three (3) per one (1) acre if multi-family housing is planned. Other carrying capacity criteria should be assessed to determine all impacts of developments.

Missoula County should acquire a parcel at least 10 acres in size in the lower portion of the study area to be held in reserve to serve future public needs for the study area such as active recreational lands, school grounds, or another rural fire station.

12. **Provide Opportunities for Voluntary Land Use Preservation**: Perpetual agreements concerning specific unique parcels should be encouraged and promoted in order to insure that appropriate lands within the study area remain agricultural and serve as open space or wildlife habitat.

Recommendations:

Conservation easements, agricultural covenants and other designations that would protect scenic and unique lands perpetually should be investigated. The opportunity exists to incorporate these preservation tools into future development proposals for large undeveloped tracts which help maintain the rural character of the study area.

The Rural Planning Office shall continue to contact and inform property owners where significant conservation resources (open space, ecological, historic, recreational, wildlife or agricultural resources) exist. Staff will assist willing owners with investigating the different voluntary land use techniques that may be used to preserve these resources.

The County shall cooperate with and support non-profit organizations, local, state and federal agencies that acquire land for conservation purposes and public access.

13. **Preserve and Enhance Health, Safety and Welfare**: Emergency contingency plans should be reviewed to determine the accumulating impacts development has on the study area.

Recommendations:

Fire contingency plans should updated at a reasonable interval, depending on the rate of land use change in the study area.

Hazardous material contingency plans and response scenarios should be updated as deemed necessary for the Yellowstone Pipeline, which carries hydrocarbons and bisects the study area.

Review of development proposals by emergency response agencies should occur to determine impacts on availability of services.

V. IMPLEMENTATION

Due to the very fact that land uses are subject to changes depending upon the needs of owners, and that plans become outdated, a continual review for applicability should correspond with this document. In order to insure that this plan reflects the desires of the public, and to insure the health, safety, and welfare of the public are protected, the County government should follow the following review schedule.

January 1994 - Missoula County Board of County Commissioners Adopt Butler Creek Area Comprehensive Plan Amendment.

County agencies should continue to collect relevant natural resource data and monitor land use changes and development throughout the study area.

The Rural Planning Office will continue to contact property owners in area with significant conservation resource values and inform and assist in the use of voluntary land use preservation techniques.

The Joint Review Committee (the formal cooperative committee consisting of representatives of Missoula County, US Forest Service-Lolo National Forest and Region 2 Department of Fish, Wildlife & Parks) should continue to address issues of mutual concern to insure cooperation, implementation as well as potential cost savings between agencies.

Missoula County should review and amend this document as needed, with a formal review and update occurring no later than the year 1999 (5 years).

The hearing was opened to public testimony.

Sandy Boehmler, a landowner in Lavalle Creek, thanked the Commissioners and Tim Hall for setting up this area as a proposed plan and for the hard work involved. She stated when the proposed plan referred to sanitation, it was quite vague. The plan asserts that the levels of nitrate are already at a point which cannot sustain much more concentration. Yet, the plan also encourages one home per five to ten acres. This equates to an additional 840 homes that could potentially be on individual septic systems. The language suggested that community sewer systems be encouraged where there is high density development. If the level of nitrates is already at a point where it cannot sustain a higher level of nitrate concentrations, then the language shouldn't merely suggest, but require; the language should be much stronger. This is a very critical issue. If something is merely encouraged, it will not happen. The plan also addresses and shows concern for infrastructure costs, but merely recommends and encourages; the language should require the cost of infrastructure to be included in cost of development. If this is not included, the County is not looking at the whole picture and is not taking care of these issues. She said she agreed with the plan, but expressed concern that it was very vague on what the limits are. The County needs to look at the limits carefully and not be so vague about the language. Because of the vagueness with which the plan is written, the limits could be overstepped. The guidelines should be more specific and clear for these areas of concern.

John Fletcher voiced the same concerns as Sandy Boehmler. He said the theme of the plan, which is centered around conservation and preservation, is satisfactory. However, the recommendations veer more toward development guidelines. The County has to have guidelines for development. However, the tone of the wording should be less vague, more insisting. He suggested various changes to the amendment: 1) the amendment should explicitly rule out a connection to Snowbowl Road from the Grant Creek drainage to the ridge between Grant Creek and Butler Creek. Making a scenic route will merely increase traffic into the area; 2) he suggested that text be included in the amendment pages 17, 18 or 19 that reads, "further residential development of the creek bottom lands is discouraged. Any such development must be in clustered form centered on currently existing homesites at the time of the amendment's adoption; and 3) the amendment should include planning for a community water system or connection to Mountain Water. Similarly, all development should include drylaying of sewer connection lines and a community commitment toward connection with the West Broadway municipal sewer main. Poor planning has already occurred in the Butler Creek area. The land has been split with little forethought.

Phil Smith, representing himself and his wife, Donna Syvertson, strongly encouraged adoption of the plan. The area needs more rules at this point in time. The people who have moved into the area because of the rural quality of life to enjoy the tranquillity, the wildlife, open space, etc. The good old days will not stay here forever--things change. The character of the changes facing Butler Creek threatens much more than the memories of the good ole days. It threatens difficult to fix damages to the natural resources. It is critical that the County act starting with this plan to manage, guide and control the impacts to the human built environment such as the roads, schools, etc. Foresight now will save substantial public expense in the future. He said that people would rather not be planned for, but in reality, a plan is needed if the natural resources are to be protected. He said land prices in this area are a bargain. With the land prices in the area, people from other parts of the country will be buying up land because it is a bargain. This plan needs to have as many teeth as possible in order to control the growth this area is being confronted with. He said he realized the plan was merely a guideline for growth, but perhaps zoning could be passed at some point in time to put some muscle to the plan for enforcement. He recommended specific changes to page 5--listing of goals: 11) add "agricultural" to the land uses that need to be preserved and promoted. There is a significant amount of land currently in agricultural use. Maybe there is a way to keep agricultural land in agricultural use. On page 22 of the plan, recommendation 10, Tim Hall mentioned that the recommended specific land use or residential densities and that the plan continue the 1 unit per 40 acres. However, there is no direct recommendation mentioned; he encouraged that this be included as a specific recommendation.

Nick Kaufman, WGM Group, stated that the Commissioners must remember that planning is something that encourages the type of l and use people would like to see allow options for future development. He agreed with the language regarding clustering and conservation. However, he voiced concern about John Fletcher's recommendations for stronger language in terms of connecting everything to City sewer or Mountain Water Company. He gave as an example the Dodd Ranch. There are a potential of 32 tracts which could each have individual septic and wells. Wouldn't people rather see the clustering concept used? If John Fletcher's proposal was adopted, a person that wanted to reconfigure a parcel into a cluster development would have to make a provision to connect to City sewer and water. This would create significant monetary disadvantages. There is no incentive for large landholders to redivide or cluster because of the economic disincentives. He urged the Commissioners to think about what they are trying to encourage. The Board should look at what is individually appropriate as development occurs. It would be a mistake to put this language into the plan.

Paul Hanson, an agricultural landowner in the area, agreed with recommendations for the plan amendment. However, he stated he did not like the recommendation to keep agricultural land in agricultural use, specifically in the bottom lands. This is ideally the way it should be, but how practical is this? He wondered how the County could condemn a piece of land? This action will de-value land which is not fair to property owners. If the County wants to keep an area as open space, the County must compensate the landowners for the development rights.

Mary Birch, resident of the Butler Creek area, commented that the land has been logged and subdivided. With this development, there doesn't appear to be much caretaking of the land. Since the timber has been cut, the weeds are coming in very strong. The roads in the area are unsightly. She said overall, the plan is good. Tim Hall did a good job incorporating the resident's concerns. She stated that she did not feel that the language was strong enough; the recommendations should be changed to be requirements. In terms of the recommendations for housing density, she said these are too dense now. The Dodd Ranch is designated as 1/40 acres. However, previous comments suggest that the ranch has already been broken up into 20 acres parcels which means that the plan is being violated now. She expressed concern relative to the time when the housing permits are requested. She encouraged the Commissioners to stick with the 1/40 acres designation and protect the land through density control.

Bruce Boehlmer spoke in agreement relative to the winter range as referred to on page 20 of the plan amendment. However, some of the areas will be cut up if there is 5/10 acre developments. Some kind of

corridor needs to be set up which will connect the winter range. Pockets will exist that animals won't be able to get to. He said his family is planning to look at putting their land into a conservation easement.

Roger Dunsmore, a former resident of the land above the Dodd Ranch, commented that this document seems to be a development document rather than a planning document. He said there were two key phrases in the document--protecting the rural character of the area and that this was the last relatively undeveloped creek bottom in the area. The document as a whole did not take this language seriously enough. The document had too great an acceptance of the development wave coming. He agreed with John Fletcher's comments relative to the connection of Snow Bowl to Butler Creek. The more access, the less rural character Butler Creek will have.

Phil Smith said at some point in time, the land can no longer be chopped up. He recommended that the Commissioners identify areas which are suitable for development and where development can be located and where people can be best served. This will better protect the remaining areas. He said the area needs to have strong conservation, but it also is necessary to think about the larger question of identifying more suitable areas to put people where the infrastructure and service needs are available.

There being no further testimony, the hearing was closed to public comment.

Barbara Evans wondered if any of the suggestions could be included in the plan. Should the adoption of this plan be postponed for a week in order to give the time needed to include the comments?

A discussion ensued relative to the adoption of the plan amendment and whether postponing the adoption would make sense. Could comments be taken until next week with the decision made at next week's Public Meeting?

Colleen Dowdall, Deputy County Attorney, said the Intention to Adopt should be approved with any changes. The final plan would be adopted at the time of the next meeting.

Barbara Evans moved and Ann Mary Dussault seconded the motion to postpone action on the Butler Creek Comp Plan Amendment for one week. The motion carried on vote of 3-0.

Tim Hall stated the Missoula Consolidated Planning Board voted in favor of recommending that the Commissioners adopt the plan.

HEARING (CERTIFICATE OF SURVEY REVIEW): AGRICULTURAL EXEMPTION (ROSSIGNOL) TRACT 2 OF COS 3095

Kathy Smith, Paralegal for the Attorney's Office, explained that Norma O. Rossignol submitted a request for an agricultural exemption for Tract 2 of COS 3095. The parcel is a 6.97 acre parcel and Ms. Rossignol proposes to create a 4.2 acre parcel on the upper portion of Tract 2 for continued use as pasture ground and to maintain a stock crossing under Highway 93 and the railroad right-of-way. Ms. Rossignol intends to sell the remaining 2.8 acres on the lower portion of Tract 2.

The history of the parcel is as follows: Parcel B of Section 26 T12N, R20W was originally a 223.44 acre parcel. When the right-of-way for Highway 93 and the Bitterroot Branch of the Burlington Northern Railroad were established, it split the parcel into three separate pieces. A retracement was done in 1984, establishing the three tracts as Tracts 1, 2 and 3 of COS 3095. The ownership of these parcels was maintained by Richard D. Rossignol. In 1986, a Deed of Distribution was filed by the estate of Richard D. Rossignol transferring ownership of the three tracts (among others) to Norma Rossignol. In September, 1987, Norma Rossignol used the family transfer exemption for Tract 1 of COS 3095 to create a 3.43 acre parcel. This created Tract 1-A which was transferred to Paul Rossignol in September, 1987. On April 30, 1993, Norma Rossignol quit claimed Tract 3 (among others), to Paul O. Rossignol, retaining ownership of the remainder of Tract 1 and Tract 2.

According to the records kept by the Missoula County Surveyor's Office, the applicant has previously used the following exemptions to the Subdivision and Platting Act: An occasional sale in 1981; an occasional sale, remainder and family transfer in 1983; creation of a parcel over 20 acres in size in 1983; a boundary relocation in 1986; and a family transfer in 1987.

The hearing was opened to public comment.

Barbara Evans asked if there was existing commercial establishments located on the property?

Tim Wolfe, Territorial Engineering, said there are two commercial buildings located on the property. The two pieces of property are connected by a corrugated underpass. The applicant wishes to sell the commercial

property and retain the agricultural piece, which is undevelopable because it is in the floodplain. The Comp Plan for the Lolo area designates the property as commercial.

A discussion ensued relative to the use of the land and the review process. If the request is denied, the applicant would have to go through subdivision review in order to divide the property. The area is unzoned; the use is designated as commercial in the Comp Plan. If someone wanted to change the use, they may have to obtain a Comp Plan compliance permit.

There being no further testimony, the hearing was closed to public comment.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the request by Norma O. Rossignol for an agricultural exemption for Tract 2 of COS 3095, based on the finding that 1) the division divides the land into its two existing and actual uses; 2) the remainder of the parcel will continue in its commercial use; 3) the portion of the property presently in agricultural use, because of its nature, will remain in agricultural use; and 4) the split of land appears to be consistent with the Lolo Comprehensive Plan. The motion carried on a vote of 3-0.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER EXEMPTION (LARSON) NE 1/4 NW 1/4 OF SECTION 32, T13N, R15W

Kathy Smith, Paralegal for the Attorney's Office, explained that Beverly Larson submitted a request for a family transfer exemption for the NE 1/4 NW 1/4 of Section 32, T13N, R15W. The parcel is a 40+- acre parcel which Mrs. Larson proposes to split by transferring approximately 20 acres to her son, Ray G. Wills.

The history of the parcel is as follows: the parcel was originally owned by Harry M. Bandy and was sold in its original condition to Steve Maas in 1991. Mr. Maas then quitclaimed the property to Patricia Anne Maas in February, 1993. Ms. Maas sold the parcel to Beverly Larson in April, 1993. On November 15, 1993, an identical request for a family transfer exemption was submitted by Beverly Larson to transfer a portion of the same parcel to her husband, Dave Larson. This request was tabled by the Board of County Commissioners as no one was at the meeting to answer questions. A letter was written to Eldon Inabnit to provide valid reasons, in writing, for this request to be taken off the table. A response to this letter was never received; subsequently, this request was submitted.

According to the records kept by the Missoula County Surveyor's Office, the applicant has previously used the following exemptions to the Subdivision and Platting act: a boundary relocation and retracement in April, 1992, and a boundary relocation in July 1993.

The hearing was opened to public comment.

Beverly Larson explained that she intended to give the property in question to her son who may or may not plan to build on it.

Barbara Evans said Roy Wills, the father, owns significant land in Potomac; but it is the son who will receive deed to the property. She asked the applicant to explain why her earlier request to transfer property from her husband, was dropped and then later changed the transfer to her son?

Beverly Larson stated that this was a mistake.

Barbara Evans said it sounded as if Ms. Larson wanted to find a way to split the land in order to sell it.

Beverly Larson explained that she didn't realize her son wanted land in this area. When they found out he wanted land in this area, they changed the request. The property is presently in her name.
A discussion ensued concerning access to the property. There were actually two roads; one road was not recorded on the plat. This old road accesses the property. There is an existing septic system and well on the property. A question arose relative to whether or not there was a road easement. The Maas' built the road.

Colleen Dowdall, Deputy County Attorney, explained that on the application, Eldon Inabnit indicated that access, as shown on COS #4116, runs through the proposed tract. This is a private road with an easement, but he didn't indicate the legal site and how this site was created. This is normally required.

Fern Hart stated that Ms. Larson spoke about another road which wasn't on the COS.

Kathy Smith said Mr. Inabnit did not indicate this road on the application.

A discussion followed relative to the location of this road. The County road ends five miles before Swanson Lane, which accesses the private road.

JANUARY 5, 1994 (CONT.)

Barbara Evans commented that the first application was brought in requesting a split to give to her husband, then the applicant subsequently changed the request to her son. She stated that this indicates a lack of continuity. She said she didn't want to deny Ms. Larson the right to do something with her land, but at the same time, she wanted to protect the integrity of process. She explained the Commissioners review requests to determine if there is an intent to evade the Subdivision Act. She said she had concern that in this case, there is an intent to evade the Act. She asked if it was possible for the Commissioners to approve the split contingent upon the owner not selling the land within a certain period of time. If it is sold, the split would become null and void. They would then have to divide the property through the subdivision process.

Colleen Dowdall explained that the County does not have this power within the regulations which govern the Commissioners' review of Certificates of Survey. This action would go beyond the Commissioner's power as defined by the Supreme Court and the Attorney General. It would be very difficult to enforce.

Fern Hart expressed concern about access. She said the County does not allow a subdivision to be approved without proof of legal access. She asked why the County would allow land divisions without proof of access?

Colleen Dowdall said the subdivision statutes and regulations give the County the power to inquire about access in subdivisions. Use of Certificate of Survey exemptions takes away this power or right to inquire about access. This is a significant concern because what is now known about COS's. However, the Commissioners must limit their inquiry as to whether there is an attempt to evade the Subdivision and Platting Act.

Horace Brown, County Surveyor, stated that the Road Department maintains the County portion of the road, but doesn't go as far as the parcel in question.

Beverly Larson said the homeowner's association in the area maintains the road.

Ann Mary Dussault said the applicant's original submission was a request to divide the property and gift it to the husband. The Board of County Commissioners clearly didn't have enough information to deem this request appropriate. Although the Commissioners requested more information, none was received. She asked why the County didn't receive any information relative to this particular request?

Beverly Larson stated that she didn't know why; she didn't know anything about the request for more information. She stated that she was aware that the request to gift the property to her husband has been before the Commissioners, but then she informed Eldon Inabnit that this was a mistake. The request should have been put in her son's name rather than her husband's. She explained there had been mis-communications about who she wanted to give the property to.

Ann Mary Dussault wondered if the change was made because it seemed to them to be more likely that the Commissioners would approve a division of land that would go to a child rather than a spouse?

Beverly Larson said no. She said they did not know her son wanted a piece of ground in this area. When they found this out, it was changed to his name. She explained that her son, who is 27 years old, does not presently live in Montana. She stated, as far as she knew, it was her son's intent to reside on the property. She said she intended to transfer the deeds to the property to her son.

Ann Mary Dussault stated that it may or may not be appropriate to divide this land. She said she didn't want to disbelieve what Ms. Larson was trying to tell the Commissioners. However, the initial affidavit was signed by the applicant which requested the division for a gift to her spouse. Unfortunately, she stated she had to conclude that there was an intent to evade the Subdivision and Platting Act. It is the Board's job to judge intent. The paper trail suggests that there was an attempt to evade the Subdivision and Platting Act. This does not mean the parcel cannot be subdivided; it just means that the applicant must go through the subdivision review process which is a lengthier and more expensive process.

Ann Mary Dussault moved and Barbara Evans seconded the motion to deny the request by Beverly Larson for a family transfer exemption for the NE 1/4 NW 1/4 of Section 32, T13N, R15W, based on the finding that there appears to be an intent to evade the Montana Subdivision and Platting Act, based on the original submission of the request for a family transfer followed by a second submission of a similar affidavit, with the only change being to whom the property be given. The motion carried on a vote of 3-0.

Barbara Evans explained that Ms. Larson still has the option of going through the subdivision review process which will allow her to split her land.

Mike Hanson, a real estate agent, explained that he assisted Mrs. Larson in purchasing the property in question in January or February of last year. When she bought the property, she indicated that she wanted to split the

JANUARY 5, 1994 (CONT.)

land and retain a piece for her family. However, there was an on-going problem with the title company which did not close the transaction between Ms. Larson and the previous owner, Mr. Maas and his wife in a timely manner. The Maas' were going through a nasty divorce which created problems with the title. At this time, the Legislature was considering new legislation that affected exemptions to the Subdivision and Platting Act. He said they spoke with Michael Sehestedt, Deputy County Attorney, who assured them that if Ms. Larson went through transfer with her son, there would be no problem. The whole process took quite a bit of time. The decision to give the parcel to her son was not a last minute decision.

There being no further business to come before the Board, the Commissioners were in recess at 3:20 p.m.

JANUARY 6, 1994

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Evans attended a Reserve Street Planning & Zoning Citizens Committee Meeting held at the Orchard Homes Country Life Club.

Audit List

Commissioners Hart and Dussault signed the Audit List, dated January 5, 1994, pages 2-44, with a grand total of $680,144.48. The Audit List was returned to the Accounting Department.

Monthly Report

Chair Hart examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending December 31, 1993.

Monthly Report

Chair Hart examined, approved, and ordered filed the Monthly Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ending December 20, 1993.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-004

The Board of County Commissioners signed Resolution No. 94-004, a resolution fixing Commissioner district boundaries, as per MCA 7-4-2102 which requires that the County be divided into three Commissioner Districts as compact and equal in population and area as possible; and resolving, after reviewing the 1990 census data, that the Commissioner District boundaries as previously established and shown on the map attached to the Resolution are continued as the Commissioner District boundaries for Missoula County.

Agreement

Chair Hart signed a Lease and Option Agreement with GB Equipment for a DC 1855 Mita copier purchased from Wyckmans by the Weed Department, as per the terms set forth. The Agreement was returned to the Extension Office for further handling.

Other items included:

1) the Commissioners appointed Judy Hugelen as an interim member of the proposed Lolo Community Council;

2) the Commissioners reappointed Julie Gemar and Mick Harsell to two-year terms on the Missoula County Fair Commission through December 31, 1995;

3) Brad Wenz and E. E. "Buck" Smith were reappointed as ad hoc members of the Fair Commission through December 31, 1995;

4) the Commissioners reappointed Jerry Ford and William Gilman to two-year terms on the Missoula County Zoning Board of Adjustment through December 31, 1995; and

JANUARY 6, 1994 (CONT.)

5) the Commissioners voted to sponsor the grant for the Innovative Homeless Initiative Demonstration Project and to support the program.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 7, 1994

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

Audit List

Commissioners Hart and Dussault signed the Audit List, dated January 7, 1994, pages 2-18, with a grand total of $75,410.90. The Audit List was returned to the Accounting Department.

Monthly Report

Chair Hart examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending December 31, 1993.

Employment Agreement

The Board of County Commissioners signed an Employment Agreement with John DeVore to employ him as the County's Administrative Officer to perform the functions and duties set forth in the Agreement, commencing January 7, 1994, and be subject to review on January 7, 1996, and every three years thereafter, at a salary determined annually between the Board and Employee payable according to the schedule applied to other Missoula County employees. The Commissioners also approved granting the retirement contribution amount of $15,900.00, which covers what the County's retirement contribution would have been from Fiscal Year 1988 through the end of December, 1993, as per the memo from John DeVore, dated December 16, 1993.

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

JANUARY 10, 1994

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Dussault spoke at the DARE Program graduation ceremonies which were held at the Bonner School.

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Bonnie Arno as principal for warrant #017335, dated November 23, 1993, issued on the School District #1 Special Education/General Fund in the amount of $826.20 now unable to be found.

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Karie Hinkle as principal for warrant #P074030, dated December 28, 1993, issued on the Missoula County High School Payroll Fund in the amount of $183.35 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-005

The Board of County Commissioners signed Resolution No. 94-005, a resolution authorizing the Clerk and Recorder to make application to the County Treasurer of Missoula County for tax deeds on lands which remain unredeemed in the Office of the County Treasurer on September 21, 1993, and for which notice has been properly made; and instructing the County Treasurer to cancel 1989, 1990, 1991, 1992 and the current year's taxes on the same.

JANUARY 10, 1994 (CONT.)

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 11, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-006

The Board of County Commissioners signed Resolution No. 94-006, a resolution granting an agricultural exemption to Norma O. Rossignol for the upper portion of Tract 2 of COS 3095 (approximately 4.2 acres) as she proposes to continue to use the upper portion for continued use as pasture ground and stock crossing.

Modification of Agreement

Chair Hart signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences to modify the terms of the agreement concerning the SFY94 WIC Program (DHES No. 340110), as per the items set forth. The Modification was forwarded to DHES in Helena.

Supplement to Lease Agreement

Chair Hart signed a Supplement to a Lease Agreement between Missoula County and the Federal Aviation Administration revising the legal description of original lease (No. DTFA11-92-L-15525) dated October 20, 1992, due to construction of an overhead powerline by Missoula Electric Co-op and the placing of a power pole at the original location as described in the original lease. The Lease Agreement was forwarded to FAA, Northern Mountain Region Office in Renton, Washington for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 12, 1994

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

Audit List

Commissioners Hart and Dussault signed the Audit List, dated January 11, 1994, pages 2-21, with a grand total of $50,028.36. The Audit List was returned to the Accounting Department.

Monthly Report

Chair Hart examined, approved and ordered filed the Monthly Report of Sheriff Doug Chase showing items of fees and other collections on account of civil business in Missoula County for month ending December 31, 1993.

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #26, pay date of December 23, 1993, with a total Missoula County payroll of $481,120.23. The Transmittal Sheet was returned to the Auditor's Office.

Plat

The Board of County Commissioners signed the Plat for Dinsmore's Orchard Homes Addition No. 4, Tract 13, located in the SW 1/4 of Section 19, T13N, R29W, PMM, a total area of 2.16 acres, with the owner of record being Beverly J. Hemphill.

Grant Application

Chair Hart signed Certification on a Subgrant Application to the Board of Crime Control by the Sheriff's Department for the Operation Crackdown project for the period from 7-1-94 through 7-1-95, as per the items and budget set forth. The application was returned to Larry Weatherman, Undersheriff, for further handling.

Other items included:

> the Commissioners reappointed Roy Kimble to the Missoula County Tax Appeal Board for a three-year term through December 31, 1996.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Barbara Evans and Ann Mary Dussault.

PRESENTATION OF AWARD TO DEPUTY PAT TURNER (DUI ENFORCEMENT)

Don Mormon, Patrol Captain in the Sheriff's Office, said the United States Department of Health and Human Services, Public Health Service, Substance Abuse and Mental Health Services Administration annually gives awards to persons in Law Enforcement who demonstrate a concern for the safety of the driving public by their enforcement of the Driving Under the Influence laws of the nation.

Five awards were given this year in the State of Montana. The state of Montana Highway Traffic Safety Division of the Justice Department nominated one officer from the Missoula County Sheriff's Department. The Department was selected because in that year, the department had exceeded all other Sheriff's Departments in the State in number of DUI arrests. The work by all officers in the department who work DUI's is being recognized by this nomination.

Deputy Pat Turner is awarded this plaque to recognize his dedication to the safety of the public by working DUI enforcement.

Lonnie Parson, Missoula Traffic Safety Task Force Coordinator, explained that over the past several years, there has been a dramatic increase in DUI arrests made the Missoula County Sheriff's Office. The number of arrests tripled between 1988 and 1992. Deputy Pat Turner has been in the forefront of this effort. For this reason, the Missoula Traffic Safety Task Force chose Pat Turner as their recommended recipient of this award. She presented the award to Deputy Pat Turner and expressed appreciation for his commitment to reducing drunk driving in Missoula County.

The Commissioners also thanked Pat Turner for his commitment.

DECISION: ADOPTION OF RESOLUTION OF INTENT TO ADOPT FORT MISSOULA PLAN AMENDMENT - POSTPONED FROM 1/5/94

Barbara Evans moved and Ann Mary Dussault seconded the motion to postpone action of the resolution of intent to adopt the Fort Missoula Plan Amendment for one month. The motion carried on a vote of 3-0.

Barbara Evans explained that the Commissioners need more time to study the document as it is very important to the Commissioners.

Ann Mary Dussault explained that it was the intention of the Board to amend some of the boundaries of the district. It became confusing as to what was being adopted and what was not. The Board needs to discuss and clarify the document further.

DECISION: COMP PLAN AMENDMENT - BUTLER CREEK AREA - POSTPONED FROM 1/5/94

Fern Hart explained that the Butler Creek area Comp Plan amendment had been postponed from the January 5th Public Meeting.

Tim Hall, Rural Planning Office, explained that after last week's meeting, the Commissioners met to discuss potential amendments to the draft Butler Creek Comp Plan. The following changes have been made:

1) Tom Barger, City/County Health Department, Environmental Health Specialist, provided written comment to recommend that the section, on page 16, Recommendations section #2, "Reduce Potential Water Pollution" where it reads "Prohibit concentrated stock watering areas on parcels 20 acres or less" be amended to read "Prohibit **current and future** concentrated stock watering areas...". He recommended the following sections be added:

> a) Irrigation using gray water from individual septic systems is not currently allowed under existing state regulations. Treated sewage from a community system, designed, engineered, and approved for such use must be reviewed by the State Water Quality Bureau and receive an operation permit.
>
> b) Proper densities for development shall be determined by the overall carrying capacity of the sites proposed. Maximum densities shall not exceed present and future City/County Health Department regulations and limitations on septic system location and density.

2) Horace Brown, County Surveyor, recommended the wording on page 21, "Any planning and design work for a Butler Creek Road railroad over onto Highway 10..." be amended to read, "Any planning and design work for an alternate Butler Creek Road access onto Highway 10 which avoids the railroad crossing should be phased so that improvements will be in place...". Without engineers determining if an overpass or underpass is necessary, this shouldn't be stated in the plan.

Barbara Evans commented that it was Horace Brown's concern that the wording reflect that it would not be the County's responsibility to do this.

Tim Hall said that the language does not state in any shape or form that it would be the County's responsibility.

Colleen Dowdall, Deputy County Attorney, said the plan doesn't say that it **should** happen, but only **if** it does.

Tim Hall continued the suggested amendments:

3) Phil Smith, citizen, suggested additions to page 5, Goal #11, that agricultural uses be added to this list to read, "Promote the best use of land for residential, agricultural, commercial, industry, open space and other types of development consistent with the goals of the landowners, residents and visitors."

Also, on page 23, Mr. Smith suggested language be added relative to open and resource lands as follows:

> Areas not outlined for densities of one (1) house per 5-10 acres are to be considered open and resource lands with the recommended density of one (1) dwelling unit per 40 acres. This designation restates the current recommended density for these lands, as outlined in the 1990 Urban Comprehensive Plan Update.

He said all of the densities that are recommended in this plan simply echo the densities that the 1990 Urban Comprehensive Plan had in place. He said he specifically stated in the plan the areas proposed for densities of one house per five to ten acres, but did not talk about the open and resource lands.

On page 15, Parks and Recreation, he added a sentence on the end to read, "Convenient quick access into the Rattlesnake Wilderness, and the Salish and Kootenai Tribal lands at the northern end of the study area is an issue of concern that recreationalists should address before venturing into these areas." He said access into the Rattlesnake Wilderness and the Tribal lands to the north has been an issue. Any non-tribal member that ventures into that particular portion of the Tribal lands is in violation of Tribal policy. He said he wanted to attach some language into the document that would state that the County is not condoning access into these lands.

Barbara Evans suggested that the wording more clearly state what Tim Hall was trying to say.

Tim Hall explained that the reason it was stated in this manner is the Tribal Planning Office addressed it as a potential issue of concern; however, it hasn't yet been through their whole process. He said the Tribal Planning Office suggested that before the language is amended any further, this particular language be stated. He suggested that the Commissioners consider adopting the plan with this language and amend this one section if there is a need. He said they could wait for language from the Tribe, but it could be some months before things get settled with the Tribes.

Barbara Evans stated she didn't have any problem waiting for language, but hoped the wording clearly stated what was really meant.

JANUARY 12, 1994 (CONT.)

Fern Hart explained that this is not a public hearing, but is a continuation of the Commissioner's deliberation. Written comments have been received and were reviewed by the Commissioners.

Barbara Evans asked if the wording in this plan satisfactorily indicates that the densities can be determined in the future on something other than hard and fast rules?

Tim Hall said this document allows for the latitudes necessary to make such determinations. Time and again, the plan mentions the carrying capacity of the land based on the number of natural resource and human criteria.. It will be the decision of the Commissioners to amend the plan to be more or less stringent.

The Commissioners complimented Tim Hall for all of his efforts.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the Resolution of Intent to adopt the Butler Creek Amendment to the Comprehensive Plan with the changes as follows:

1) Page 16, Recommendations - Section #2, "Reduce Potential Water Pollution" where it reads "Prohibit concentrated stock watering areas on parcels 20 acres or less" be amended to read "Prohibit **current and future** concentrated stock watering areas...".

Add the following sections to "Reduce Potential Water Pollution":

> a) Irrigation using gray water from individual septic systems is not currently allowed under existing state regulations. Treated sewage from a community system, designed, engineered, and approved for such use must be reviewed by the State Water Quality Bureau and receive an operation permit.
>
> b) Proper densities for development shall be determined by the overall carrying capacity of the sites proposed. Maximum densities shall not exceed present and future City/County Health Department regulations and limitations on septic system location and density.

2) On page 21 be amended to read, "Any planning and design work for an alternate Butler Creek Road access onto Highway 10 which avoids the railroad crossing should be phased so that improvements will be in place...".

3) Addition to Page 5, Goal #11, "Promote the best use of land for residential, **agricultural**, commercial, industry, open space and other types of development consistent with the goals of the landowners, residents and visitors."

4) Page 23 be clarified relative to open and resource lands as follows:

> Areas not outlined for densities of one (1) house per 5-10 acres are to be considered open and resource lands with the recommended density of one (1) dwelling unit per 40 acres. This designation restates the current recommended density for these lands, as outlined in the 1990 Urban Comprehensive Plan Update.

5) Page 15, "Parks and Recreation" a sentence shall be added to read, "Convenient quick access into the Rattlesnake Wilderness, and the Salish and Kootenai Tribal lands at the northern end of the study area is an issue of concern that recreationalists should address before venturing into these areas."

The motion carried on a vote of 3-0.

Resolution No. 94-007

The Board of County Commissioners signed Resolution No. 94-007, a resolution of intent to adopt the Butler Creek Area Comprehensive Plan, in its final draft form, as an amendment to the Missoula County Comprehensive Plan.

HEARING: ENVIRONMENTAL ASSESSMENT - AIRPORT INTERCHANGE PROJECT

Vaughn Anderson, Druyvestein, Johnson & Anderson, explained that Missoula County owns over 400 acres between Interstate 90 and West Broadway and Butler Creek and Reserve Street. This area has been zoned for light industrial use (CI-1) and a portion of the area has currently been developed as the Momont Industrial Park. Due to the rail, air and highway transportation modes that are readily available at this location, it has been designated by the County as the future transportation hub and development park area for the Missoula valley.

JANUARY 12, 1994 (CONT.)

The Missoula area has seen a considerable amount of rapid growth in the recent years. As a result of this growth, there is a need to plan for the future and this project will provide a coordinated and well designed infrastructure system that will meet the industrial development needs for this area. It will also provide an integrated transportation center where all three of the main modes of transportation can be accessed in a central location to provide a better service to the businesses and industries that desire to locate in the Missoula area. This will also provide additional opportunities for economic development such as the creation of a Foreign Trade Zone or Port Authority. By installing this infrastructure before the industries and businesses are ready to move to the area, a more controlled development of the site, as well as an integrated planned development, can be better achieved.

The proposed action will entail the addition of a standard diamond interchange with 24-foot ramps, a 45-foot two and three lane cross road connection to West Broadway, a 45-foot two lane urban frontage road from Butler Creek to Reserve Street and a 54-foot three lane improvement on West Broadway on a sub-grade adequate for a future 78-foot five lane facility as shown.

Proposed project improvements will include grading, structures, surface drainage, plant mix or concrete surfacing, utility improvements, railroad grade separation, elimination of four at-grade rail crossings, upgrading existing road approaches, a connection to the Goodan-Keil Subdivision and the Momont Industrial Park, fencing, signing, right-of-way acquisition, utility moves, landscaping and other miscellaneous features.

Considering the environmental limitations and the desire to provide the safest possible roadway, several alternative highway design methods were identified. The alternative alignments and design methods were considered with respect to their overall effectiveness in providing the necessary improvements in the most cost effective manner. The following issues were considered in the selection of the proposed alternative:

1. Most functional design for access to the industrial area, Interstate 90 and the Missoula County Airport.
2. Impacts to the environment.
3. Most economical connection to Interstate 90 and West Broadway.
4. Apparent low cost of additional right of way at the present time.
5. Impacts to existing community and commercial facilities.
6. Minimal relocation of utilities and distribution lines.
7. Interference with the existing interstate interchanges.

Coordination efforts were initiated by Missoula County on October 20, 1992 when a letter of intent was issued to federal, state and local agencies and effected private residents and organizations. Comments and information were requested which would be relevant to this project.

Comments from agencies responsible for the protection and management of the State and National resources in the project area were obtained following the circulation of the letter of intent.

Continued coordination was pursued with appropriate agencies and the public to assure a design concept that would minimize adverse impacts on the surroundings. Appropriate notices and advertisements were sent out for all meetings that were held.

The first public scoping meeting was held on November 4, 1992 to acquaint the public with the proposed project. Follow-up meetings were held on February 10, 1993 and on March 2, 1993. Strong public support was received at the meeting and items of concern were addressed, noted and incorporated into the design.

The final public information meeting was held on December 14, 1993 to present the findings of the Environmental Assessment. The response was very positive with additional recommendations being received that will be handled in the design phase of the project.

Based on the findings of the Environmental Assessment, he requested that the Board of County Commissioners determine that this project will not have any significant impacts to the human environment.

The hearing was opened to public comment; there being none, the hearing was closed to public testimony.

Barbara Evans asked about the process; after the environmental assessment has been adopted, what will happen next?

Vaughn Anderson explained that once the assessment is adopted, they will prepare a findings of no significant impact statement which will be sent to the Montana Department of Transportation and the Federal Highway Administration. These agencies will sign the document if they find there are no significant impacts. At this point, the project can be continued. Without any additional adverse comments, this shouldn't be a long process. He said they are hoping to have it completed by the end of this month.

JANUARY 12, 1994 (CONT.)

Ann Mary Dussault clarified the Commissioners will make a finding and the next step is to send the findings of no significant impact statement to the State Department of Transportation who will either agree or disagree with the Board's finding.

Vaughn Anderson said ultimately, the Federal Highway Administration will have to sign the findings of no significant impact. They will request that the Board of County Commissioners also sign this document. The funds used for this project are Federal Highway funds. The Highway Administration have to concur.

Barbara Evans moved and Ann Mary Dussault seconded the motion to adopt the Environmental Assessment for the Missoula County Airport Interchange based on the recommendations and on the fact that there will be no significant environmental impacts. The motion carried on a vote of 3-0.

HEARING (CERTIFICATE OF SURVEY REVIEW): AGRICULTURAL EXEMPTION - KLEPPER (E 1/2 NW 1/4 of Section 26, T15N, R20W)

Colleen Dowdall, Deputy County Attorney, explained that Donald F. and Vivian L. Klepper submitted a request for an agricultural exemption for the E1/2 NW1/4 of Section 26, T15N, R20W. The parcel is a 95.87 acre parcel and Mr. and Mrs. Klepper propose to gift 22.5 acres to their son, Donald K. Klepper. Instead of using a family transfer exemption, Mr. and Mrs. Klepper wish the parcel to remain in agricultural use. Donald K. Klepper currently keeps horses on this portion of the property and intends to continue to do so.

The history of the parcel is as follows: Donald F. and Vivian L. Klepper bought the parcel in its original condition in 1946. They used the occasional sale exemption in 1985 and transferred 1.13 acre of the parcel to their son and daughter-in-law, Donald K. and Janet A. Klepper.

According to the records kept by the Missoula County Surveyor's Office, the applicant has previously used the occasional sale exemption to the Subdivision and Platting Act as described above.

The hearing was opened to public comment.

Zane Sullivan of Sullivan and Tabaracchi, requested authorization to proceed to create a 22.5 acre parcel from an approximately 95.87 acre parcel by use of an agricultural exemption for the Kleppers. The Klepper property consists of two parcels. One parcel is located south of Highway 93; the other parcel is located north of Highway 93. Highway 93 forms a natural division line between the property. The proposed 22.5 acre parcel is bounded on the north by Grooms Road and Highway 93 on the south; in essence, the parcels already exist as separate parcels on the ground physically. He explained that his office is attempting to assist the Kleppers in estate planning. To accomplish this, the Kleppers wish to transfer the parcel to their son, Donald K. Klepper. Their son previously acquired a parcel in 1985 of this same parcel for the use as a commercial site in the Evaro area. There have been no other divisions since the Subdivision and Platting Act. The property was purchased by Donald F. and Vivian Klepper in 1946 and has remained in their exclusive ownership since this time. The reason the applicants are asking for this exemption is the recipient wishes to retain the property in family ownership. He is currently using the property as pasture. Donald K. Klepper intends to keep the property in agricultural use and in the family. His ultimate goal is to acquire all the 96 acres in his ownership. However, they need to do this one step at a time. He requested the Board to consider granting the request for an agricultural exemption.

Barbara Evans stated if the Board approves the request, the agricultural exemption cannot be removed without approval of the Board of County Commissioners.

Fern Hart asked if there was a business in the small parcel previously given to the son, Donald K. Klepper.

Donald K. Klepper explained that in 1984, a small service station/convenience store was opened on 1.3 acres of ground. Since this time, it has been closed down; the tanks have been removed from the ground and the soil has been tested for contamination. The last use of this ground was as a contract post office to provide service to the community through the Postal Service. The Postal Service is interested in leasing the building to provide continued service to the community; this would be the only business which will be in the building. There are people in the community who have petitioned for postal service. He explained that the he lives on the old homestead off Grooms Road; this property is not on the property in question.

A discussion ensued relative to Grooms Road which makes a wye on the Klepper's property. Mr. Klepper's elderly parents live in Missoula.

Ann Mary Dussault asked what the principal of estate planning was that would not allow for the transfer of entire parcel to Mr. Klepper at this time?

JANUARY 12, 1994 (CONT.)

Donald K. Klepper said it has always been the intent of his parents to transfer the property with the original barns, etc., to their first son. He said he has five brothers and sisters who have interest in the rest of the ground. The family wishes to work out something that is fair to all of the parties involved. He said it was his intent to acquire all of the property in order to keep the ground intact. They wish to protect the wildlife corridor.

Barbara Evans asked if any future divisions of land would have to go through subdivision review?

Colleen Dowdall said this is an agricultural exemption. An occasional sale exemption would trigger a subdivision review. There has been a previous land division through the use of an occasional sale.

Barbara Evans said any future splits of land would have to go through subdivision review.

Donald K. Klepper said there will be no split of the ground in question. The only transactions would be within the family. There will be no further requests for divisions of the property in question. The property will always be in the family.

Barbara Evans stated that the land ownership of Mr. Klepper's parent is a piece of ground. A piece is being split from this original ground through an agricultural exemption. According to the new statutes, any divisions of the rest of the property has to go through subdivision review.

Ann Mary Dussault explained that the Commissioners are concerned with divisions of land which don't go through a review process to review legal access, the impacts to natural resources, impacts to wildlife corridors, etc.

She explained that it is not at all uncommon in estate planning for parents to gift to their children equal portions of a piece of property.

Donald K. Klepper said there are 70 remaining acres.

Ann Mary Dussault said some might think that the remaining 70 acres could be split and gifted to each remaining child.

Donald K. Klepper said as a provision in his father's and mother's will, the remaining land is to be sold and the proceeds divided. He said the family is trying to work the whole process so that the property in question can be acquired by him; the funds from this acquisition would be paid into a trust. There is no provision in the will to divide the land.

Ann Mary Dussault clarified that if there was an intent to divide the property and gift it in parcels, the transactions would be required to go through subdivision review.

Donald K. Klepper said it is their intent to hold the land intact.

Barbara Evans moved and Ann Mary Dussault seconded the motion to grant approval for the request by Donald F. and Vivian L. Klepper for an agricultural exemption for the E1/2 NW1/4 of Section 26, T15N, R20W, based on the finding that there was no attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

At this time, the Commissioners acknowledged Tobby Hatley , a news reporter from KECI Television, for his hard work. Mr. Hatley will be moving to Couer d' Alene, Idaho to continue his news reporting in that area.

Barbara Evans moved and Ann Mary Dussault seconded a motion to wish Tobby Hatley well and to hurry back to Missoula. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 2:25 p.m.

JANUARY 13, 1994

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

DAILY ADMINISTRATIVE MEETING

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

JANUARY 13, 1994 (CONT.)

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #1, a pay date of January 7, 1994, with a total Missoula County Payroll of $460,365.99. The Transmittal Sheet was returned to the Auditor's Office.

Plat

The Board of County Commissioners signed the Plat for Linda Vista Seventh Supplement -Phase 3, a rural residential subdivision located in the SW 1/4 of Section 12, T12N, R20W, PMM, Missoula County, a total area of 10.97 acres, with the owners/developers of record being the Twite Family Partnership. The requirement for park land was satisfied through a park land dedication included with Linda Vista Fifth Supplement - Phase 6.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 14, 1994

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, Commissioner Evans attended a meeting of the Highway Commission being held at the Holiday Inn.

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

JANUARY 17, 1994

The Missoula County Courthouse was closed due to the Martin Luther King Junior Holiday.

JANUARY 18, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Certifications of Acceptance

Chair Hart signed Certifications of Acceptance (3) for County Maintenance for the following roads:

1) Bison Lane, Road No. L-0562, located in Section 35, T. 12 N., R. 20 W., with the limits of acceptance being .106 miles in the Rossignol Orchard Tracts Subdivision;

2) Dove Court, Road No. L-0561, located in Section 35, T. 12 N., R. 20 W., with the limits of acceptance being .114 miles in the Rossignol Orchard Tracts Subdivision; and

3) Lake Side Drive, Road No. L-0587, located in Section 35, T. 12 N., R. 20 W., with the limits of acceptance being .110 miles in the Rossignol Orchard Tracts Subdivision.

The Certifications were returned to the Surveyor's Office.

Environmental Assessment - FONSI Statement

The Board of County Commissioners signed the FONSI (Finding of No Significant Impact) Statement of the Environmental Assessment for the Missoula County Airport Interchange Project DPI 0195 (001), stating that the Federal Highway Administration has determined that this project will not have any significant impact on the human environment. The document was returned to Vaughn Anderson at Druyvestein, Johnson & Anderson for further signatures and handling.

JANUARY 18, 1994 (CONT.)

Resolution No. 94-008

The Board of County Commissioners signed Resolution No. 94-008, a Budget Amendment for FY'1994 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Adopted	Change Budget	Amended
Travel, Meals, Lodging	$ 0	$1,014	$1,014
Printing	$ 500	$ 700	$1,200
	$ 500	$1,714	$2,214
Description of Revenue		**Revenue**	
Hepatitis B	$24,000	$1,714	$25,714

DHES Contract Modification No. 330196-01, Federal Catalog No. 93.268.

Contract

The Board of County Commissioners signed a Contract between Missoula County and Iroquois Industrial, Inc., for the purpose of constructing a metal roof building structure at the Missoula County Fairgrounds, as per the terms set forth, for a total sum of $122,800.00, as per the bid proposal, and to be fully completed within 112 calendar days from the date of the contract. The Contract was returned to Doreen Culver, Bidding Officer, for further handling.

Plat and Agreement

The Board of County Commissioners signed the Plat for Red Hawk Acres, a subdivision located in the NW 1/4 of Section 10, T14N, R20W, PMM, Missoula County, a total area of 25 acres, with the owners being Eugene and Irene Johnson. The Commissioners also signed an Agreement between Missoula County and Roger C. Hobbs, who owns certain property described as Parcel A on Certificate of Survey No. 2039, which will be filed as Red Hawk Acres, a Summary Subdivision, with a remainder parcel. The summary plat was approved on November 17, 1993, subject to conditions, one of which was that Hobbs and the County enter into an Agreement containing the provisions listed in the Agreement.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 19, 1994

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

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Capital Business Systems Inc. as principal for warrant #251051, dated September 15, 1993, issued on the District Court fund in the amount of $84.15 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Quitclaim Deed

The Board of County Commissioners signed a Quitclaim Deed from Missoula County to Carl A. Bergset for SUID #5840931, in Govt. Lot 2, in NW 1/4 NE 1/4 Plat B Section 3, T16N, R15W, .073 acres in size, as recorded in Book 308 Page 2020. The Deed was returned to Doreen Culver in General Services for further handling.

Block Grant Quarterly Reports

Chair Hart signed the Maternal and Child Health Block Grant Quarterly Reports for the periods 7-1-93/9-30-93 and 10-11-93/12-31-93 (Personnel through 12-08 only). The reports were forwarded to DHES in Helena.

JANUARY 19, 1994 (CONT.)

Loan Agreement

The Board of County Commissioners signed a Loan Agreement between Missoula County and American Eagle Instruments, Inc., for the purpose of receiving economic development assistance through the Montana State Community Development Block Grant (CDBG) Program to increase employment opportunities for low and moderate income persons residing within Missoula County's jurisdictional area, as per the terms set forth, with the total requested amount being $50,000.00. The Loan Agreement was returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Extension Letter

The Board of County Commissioners signed a letter to Gordon E. Sorenson, P.E. approving a 180-day filing extension for Southpointe Subdivision, making the new filing deadline July 19, 1994.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Barbara Evans and Ann Mary Dussault.

NEWS CONFERENCE: MISSOULA COUNTY'S INVOLVEMENT WITH THE WORKER'S COMPENSATION PROGRAM

Hal Luttschwager, Missoula County Risk Manager, explained that Missoula County has been a participant in the Montana Association of Counties (MACo) Worker's Compensation Trust since it was established in 1985. In 1987, the Board of County Commissioners authorized a Loss Control Management Program in order to limit Missoula County's exposure to injuries in the work place. This program has paid dividends in terms of reductions in the rate and seriousness of work place injuries each year since it's inception. This had led to the County's review of the current MACo program in terms of total cost to the County and reviewing the feasibility as well as viability of establishing a self funding program. Since 1988, Missoula County has paid $1,177,112 in premiums to the MACo program while experiencing $356,703 in claims. This review indicates that Missoula County will save money through a continued emphasis on an aggressive loss control program while reducing long-term expenses currently incurred under the MACo Trust. No additional resources will be required to finance a Self-Funding program since this cost is already calculated in the current Fringe Benefit Rate. Missoula County has a strong history of successfully operating self insurance programs, therefore, no additional personnel or software will be required to administer the County's own program.

This withdrawal from MACo and establishment of the County's own program will require the issuance of $770,000 in General Obligation Bonds. Authorization for this is found in Title 39 under the rules governing worker's compensation. The retirement of this debt is factored into the total cost of establishing the County's own program which will be no greater than the current premiums paid to MACo and it is expected that this cost will be reduced in the future.

The staff recommended that the Board of County Commissioners authorize the staff to proceed with the necessary steps to withdraw from the MACo program and establish a Missoula County Self Funded Worker's Compensation Program.

Fern Hart asked for questions from the audience.

Adele Lewis, reporter from KECI Television, asked if there have been any other agencies to do this?

Fern Hart explained that MACo established their own Worker's Comp fund and are not a part of the State Worker's Compensation Fund. She said they did a very good job; in fact, their record was better than the State Fund. However, by establishing Missoula County's own fund, the County can do better for itself than MACo could.

Michael Downs, a reporter for The Missoulian, asked when the County started studying the feasibility of self insuring Worker's Compensation?

Hal Luttschwager said the inception of this particular feasibility study was eight months ago. Included in the feasibility study was an analysis of Missoula County's losses and premium history. In addition, the State statutes were studied, and self insurance was discussed with the Department of Labor and Employment Relations Bureau which has the oversight responsibility for self-insurers in the State of Montana. They also spoke with other agencies who were self-insured; these were primarily out-of-state because no other county in

the State of Montana is self-insured for Worker's Comp. The County also had to conduct studies in the trends in claims as well as problems being experienced by others within and outside of the State Fund insurance companies and self-insurance mechanisms. The County had to acquire the software to track claims and provide the necessary reports for the Department of Labor and provide the financial information, claims history, loss control information and all the other details required by the Department of Labor. The County communicated with the Department of Labor for four months before they gave their approval for Missoula County to self insure. Part of the process is communicating with excess insurance carriers and negotiating for rates to cap the County's catastrophic loss potential within the County's financial ability to pay. Also banking, checking, adjusting, administrative functions, and budget functions, also had to be put together to analyze the situation and develop a recommendation for the Commissioners.

He explained that there will be no fiscal impact this year because the same money currently being paid to MACo will cover the County's costs internally. He said they expect the fiscal impact to be better than zero; it should be favorable to the County. However, the staff tried to be somewhat conservative at first. He said they will also reinvest any net proceeds gained from self-insuring into the program until it is financially sound. If the history of the last six years repeats itself, the program should be financially sound within three to five years. At this time, the staff can look at whether or not they are comfortable with reducing premiums and allocate costs back to the departments.

A discussion ensued relative to the bonds. The first bond will be issued by January 30, 1994; 15 days thereafter the second bond will be issued. The first bond, in the amount of $417,000 will retire the MACo debt; the second will be the balance.

Hal Luttschwager explained that the County has been involved in self insuring a variety of exposures since the late 1970's. It started with physical damage coverage on automobiles; the County only buys catastrophic coverage in the event the County would lose a lot of vehicles in one claim or one occurrence. In 1980, the County began self funding the medical plan which includes health, dental and vision coverage. Missoula County is the only public or private entity in Montana to self insure and process claims internally. The County has sophisticated hardware and a software computer program and the staff is well-trained. The staff has become quite comfortable over the last 14 years self-insuring medical, dental and vision. In addition, the County administers the Federal continuation of coverage laws (the COBRA law), that requires additional tracking and software. He said the County also self-insures and administers a Flexible Benefits Plan, general liability, public officials liability, law enforcement liability, and auto liability. The only liability that is still fully insured is the property program. The rates have remained quite competitive and it has not proven to be to the County's advantage to look at self insuring property coverage.

He said there are no other stand alone entities to his knowledge in the State of Montana that self-insure worker's comp. There are a couple of pools which are under the self insurance statute in the Montana Code. An entity is allowed by statute to either self insure individually or as a group. Most of them self insure as a group; Missoula County is fairly unique. There are very few entities who choose to self insure and retain the exposure. He said there is a certain level of comfort paying premiums in exchange for coverage. However, with the change in the marketplace and the proactive approach within the County to attempt to conserve dollars, the County has grown accustomed to self insurance. Once the Commissioners and staff gets used to this, a certain level of comfort is gained; the next one seems that much easier. Missoula County seems to be the furthest along in retention of risk. He said nationally, there is a heavy leaning by counties, cities and districts to self insure. Missoula County has participated with more organizations nationally than with any other organization in the State of Montana. He said part of this is due to size; without size, it is difficult to participate. Many entities are too small; they cannot afford the minimum premium that is required to buy an excess policy.

He explained that there are about 460 full time workers covered under the worker's comp program. There are a total of about 800 employees employed by the County in the course of a year. These employees will receive the same coverage they had with MACo.

Fern Hart added that the County visited with MACo and a good relationship still exists. They were aware that the County was not benefiting from the premiums as much as some counties were. They were not reluctant to see Missoula County go on their own.

Ann Mary Dussault said staff has exhibited expertise and has done excellent work. She said Hal Luttschwager has done a wonderful job as Risk Manager for Missoula County. This is demonstrated by the success of the two pools run by Missoula County, as well as the County's willingness to venture into this new area. This is a credit to Hal and to his staff. She also acknowledged Hal as a team leader along with Jane Ellis, Fiscal Officer, and John DeVore, Missoula County Administrative Officer.

Ann Mary Dussault moved and Barbara Evans seconded the motion to adopt Resolution No. 94-009 as follows:

JANUARY 19, 1994 (CONT.)

A Resolution Authorizing the Withdrawal from MACo Worker's Compensation Trust and Instructing Staff to Proceed with the Necessary Steps to Establish a Missoula County Self Funded Worker's Compensation Program

WHEREAS, Missoula County has participated in the Montana Association of Counties Worker's Compensation Trust since its inception in September of 1985; and,

WHEREAS, Missoula County has operated a Loss Control Management Program since 1987 in order to curb injuries in the work place; and,

WHEREAS, Missoula County has determined a self-insurance program will cost considerably less in the long-term than those costs currently incurred under the Montana Association of Counties Worker's Compensation Trust; and,

WHEREAS, Missoula County has an established history of operating successful self-insurance programs.

NOW, THEREFORE, BE IT RESOLVED that the Missoula County Board of Commissioners has determined it to be in the public interest to withdraw from the Montana Association of Counties Worker's Compensation Trust and has instructed staff to proceed with the establishment of a Missoula County self-insuring program.

The motion carried on a vote of 3-0.

CONTINUATION OF HEARING & DECISION ON: REVISIONS TO PHASE II OF COUNTY SUBDIVISION REGULATIONS

Fern Hart explained that after the 1993 Legislature passed the change in the subdivision regulations local governments were allowed to review splits of land under 160 acres. The Commissioners adopted Phase I which integrated the new legislation into the regular county subdivision regulations. After that time, the County received model regulations from the State which were reviewed. Missoula County brought its subdivision regulations up to date using the suggestions from the model regulations and the County's local needs. There have been two work sessions with interested folks who were notified and sent the applicable materials. She said this is a continuation of the second hearing. She said the aim of today's meeting was to let interested folks see how the Board has revised the drafts.

Colleen Dowdall, Deputy County Attorney, explained that after the work sessions, memos were provided with the recommended changes which were made available prior to the public hearing. At the public hearing, people commented on those revisions. Several discussions since have been held regarding these recommendations.

Fern Hart said this is a learning experience for all. The Commissioners and staff are proud of what has been accomplished.

Colleen Dowdall read a proposed motion with the staff's recommendations.

Article 1 - General Provisions

In the list of purposes on page 1, include a provision for non-motorized transportation

2. The coordination of roads, **including the provision for non-motorized transportation,** with other roads, both existing and planned.

Expand purpose No. 5 to include the following resources:

5. The provision of adequate open spaces for travel, light, air, recreation, **plant and animal habitat and scenic views.**

Add a provision which states as follows:

13. Meet minimum guidelines for the provision of services.

Revise the paragraph on page two which follows the list of purposes to as follows:

The review of subdivisions according to established standards and procedures benefits the public as well as the subdivider. By incorporating standards, the subdivider can avoid excessive expenditures of time and money to rectify errors or omissions that may otherwise have been made. The administration of these regulations as defined in the powers and duties of approving authorities assures the subdivider that equitable, consistent, and expeditious treatment of his subdivision plat will be made.

She said that this language for the review of subdivisions benefit the subdivided as well as the public. This language put the public's interests on an even keel with the subdivider's.

Article 2 - Definitions

Adopt the following definition of legal access:

JANUARY 19, 1994 (CONT.)

LEGAL ACCESS - That the subdivision abuts a public street or road under the jurisdiction of either the City, County or state. In the alternative, that the subdivider has obtained adequate and appropriate easements across all necessary properties from a public road to the subdivision.

Reword the definition of Lot Depth and Lot Frontage to be consistent with other Lot definitions as follows:

LOT DEPTH - The average depth of the lot.

LOT FRONTAGE - The length of the front lot line.

Article 3 - Subdivision Design Standards

Provide for bus turnouts in the road standards adding the following sentence at the end of 3-2(1)(D) (**page 15**):

Provision shall be made for bus turnouts, where appropriate.

Change the grade standards for private roads and driveways so that the grade of 10% will be limited to a length of 100 feet and all other grades are 8%. (This revision would be found in 3-2(1)(I) (**page 15**).

The language which refers to road intersections which occur on hilltops should be revised as follows:

Hilltop intersections are discouraged unless adequate site distances are demonstrated to the satisfaction of the County Surveyor and the governing body.

Provide a landing for access on to major roads off of county roads with the following standards:

The grade of the approach to major highways shall meet County road standards.

Revise the reference to bikeways on page 19 to read as follow:

Consideration should be given to the 1991 American Association of State Highway & Transportation Officials (AASHTO) Guide for the Provision of Bicycle Facilities.

Delete specific driveway standards making requirements for a grading plan and specific standards.

In places where the County requires the approval of the health department, the governing body and the local fire district. alter the language to allow for the recommendation of the health department, local fire district and surveyor's office with the approval of the governing body.

In the standards for mobile home parks adopt the recommendation to allow for other types of landscaping and vegetative cover.

Delete the requirement that we be do inspections and requiring occupancy records in for mobile home parks. (**page 27, 29, 30**)

The criteria for qualifying for a PUD be revised by requiring that 3 of 5 criteria be met as follows: (**page 33**).

(A) Preserves, to the maximum extent possible, the natural characteristics of the land including topography, vegetation, streams and other bodies of water;

(B) Provides for economical development of streets and other public improvements;

(C) Protects important historic sites or structures; or

(D) Preserves productive agricultural land, open space, riparian areas or important wildlife habitat; or

(E) Provides for recreational opportunities through dedication of common open space or developed facilities.

Article 4 - Subdivision Application and Review Procedure

Revise the timeliness to allow 5 working days in which to certify a packet and 15 working days in which to obtain agency review and requiring that the agency review within that time period unless prior arrangements are made with the developer. The sixty day period would still begin to run after the agency review.

Add the following language to the permission to enter section:

The permission to enter does not include the right to enter any structures on the property. Failure to provide access to the property will result in the withdrawal of the application for subdivision review.

Add the following language to paragraph 4-1 (9)(A):

The application acceptance date shall occur 21 days prior to the first planning board meeting before which a public hearing can be scheduled and the work can be completed by staff. In no event shall the acceptance occur later than 30 days after submission of the entire packet to OCD staff.

Add the following language:

JANUARY 19, 1994 (CONT.)

Nothing in this section prohibits the phasing of a project over a period which exceeds three years with the developer providing a detailed plan for the future phases of the subdivision and the proposed timing for the phasing. The governing body reserves the right to impose additional conditions which require compliance with regulations which exist at the time the each phase is brought before the governing body for review.

Add the following language (**page 46**).

In the event that land within the proposed subdivision would provide corridor access to other public lands or expands an existing parkland or common area, then the subdivider may apply for a variance from this provision in order to provide a dedication of park land.

Add the language recommended for major plats (**page 49**).

The application acceptance date shall occur 35 days prior to the first the first meeting of the governing body which a public meeting can be scheduled and the work can be completed by staff.

Revise the language in the Subdivision for lease or rent, requiring that the subdivision meet regular subdivision standards and additional standards as in the draft, deleting the requirement for paving and off street mail because they are required in the regular standards. Make the same change in the mobile home section.:

Article 5 - Submittal Requirements

Retain the original language in the regulations for requiring a vicinity sketch and add the following for another submittal:

CONDITIONS OF ADJACENT PROPERTY: **Provide the following information on an appropriate map: (1-5 follow)**

That a provision be included which provides a mechanism for enforcing those parts of a covenant which the BCC may have requested but then has no means to enforce once the plat is filed. The language as follows is added:

The governing body may require that the subdivider enter into a written agreement, to provide for the enforcement of certain restrictions imposed by the governing body as a condition of plat approval.

Add a new section on page 60 under paragraph (5) which states as follows:

Where appropriate, a statement on the plat and on each instrument of conveyance indicating that the purchasers of any lots in the subdivision will be required to waive their right to protest the creation of an RSID.

Add the same CONDITIONS OF ADJACENT PARCELS required for major plats (**page 61**).

Article 6 - Variance and Vacation of Recorded Plats

Change the variance language to meet the requirements of state law.

Article 7 - Error Correction and Adjustment Procedure of Recorded Plats

Eliminate C and F for major errors and rewrite D under minor errors as follows:

Monumentation incorrectly noted, drawn or missing.

Add language to charge the developer for minor and major errors but have and add a fee for plat adjustment (**page 66**).

The hearing was opened to public comment; there being none, the hearing was closed to public testimony.

Fern Hart said this document represents a lot of work and hours on the part of the staff. The Commissioners were pleased with the participation in the work session. This project was on a very fast schedule.

Colleen Dowdall said the public meeting was left open so that individuals could comment on the changes as a result of editing. However, this editing has not yet occurred; the editor had a family crisis. When the editing does occur, there will be a public hearing on the editing so there will be a chance to review any changes. This will take place within the next three weeks.

Fern Hart said copies of the edited version of Phase II of the subdivision regulations will be made available for the public's review.

Ann Mary Dussault moved and Barbara Evans seconded the motion to adopt the revisions to Phase II of the Missoula County Subdivision Regulations as follows:

Article 1 - General Provisions

In the list of purposes on page 1, include a provision for non-motorized transportation

JANUARY 19, 1994 (CONT.)

2. The coordination of roads, **including the provision for non-motorized transportation,** with other roads, both existing and planned.

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(C) Protects important historic sites or structures; or

JANUARY 19, 1994 (CONT.)

(D) Preserves productive agricultural land, open space, riparian areas or important wildlife habitat; or

(E) Provides for recreational opportunities through dedication of common open space or developed facilities.

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> **The permission to enter does not include the right to enter any structures on the property. Failure to provide access to the property will result in the withdrawal of the application for subdivision review.**

Add the following language to paragraph 4-1 (9)(A):

> **The application acceptance date shall occur 21 days prior to the first planning board meeting before which a public hearing can be scheduled and the work can be completed by staff. In no event shall the acceptance occur later than 30 days after submission of the entire packet to OCD staff.**

Add the following language:

> **Nothing in this section prohibits the phasing of a project over a period which exceeds three years with the developer providing a detailed plan for the future phases of the subdivision and the proposed timing for the phasing. The governing body reserves the right to impose additional conditions which require compliance with regulations which exist at the time the each phase is brought before the governing body for review.**

Add the following language (**page 46**).

> **In the event that land within the proposed subdivision would provide corridor access to other public lands or expands an existing parkland or common area, then the subdivider may apply for a variance from this provision in order to provide a dedication of park land.**

Add the language recommended for major plats (**page 49**).

> **The application acceptance date shall occur 35 days prior to the first the first meeting of the governing body which a public meeting can be scheduled and the work can be completed by staff.**

Revise the language in the Subdivision for lease or rent, requiring that the subdivision meet regular subdivision standards and additional standards as in the draft, deleting the requirement for paving and off street mail because they are required in the regular standards. Make the same change in the mobile home section.:

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Retain the original language in the regulations for requiring a vicinity sketch and add the following for another submittal:

> **CONDITIONS OF ADJACENT PROPERTY: Provide the following information on an appropriate map: (1-5 follow)**

That a provision be included which provides a mechanism for enforcing those parts of a covenant which the BCC may have requested but then has no means to enforce once the plat is filed. The language as follows is added:

> **The governing body may require that the subdivider enter into a written agreement, to provide for the enforcement of certain restrictions imposed by the governing body as a condition of plat approval.**

Add a new section on page 60 under paragraph (5) which states as follows:

> **Where appropriate, a statement on the plat and on each instrument of conveyance indicating that the purchasers of any lots in the subdivision will be required to waive their right to protest the creation of an RSID.**

Add the same CONDITIONS OF ADJACENT PARCELS required for major plats (**page 61**).

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Article 7 - Error Correction and Adjustment Procedure of Recorded Plats

Eliminate C and F for major errors and rewrite D under minor errors as follows:

> **Monumentation incorrectly noted, drawn or missing.**

JANUARY 19, 1994 (CONT.)

Add language to charge the developer for minor and major errors but have and add a fee for plat adjustment (**page 66**).

The motion carried on a vote of 2-1, with Barbara Evans voting against the motion.

Barbara Evans explained that while she support the revised regulations, she preferred to adopt them all after the editing changes had been completed. She said her no vote was not due to the content, but the process.

Fern Hart said the subdivision regulations are now in effect.

Ann Mary Dussault acknowledged the staff's work. She said it was extraordinary that this has been done in such a short amount of time. She commended Barbara Martens from the Office of Community Development and Colleen Dowdall, Deputy County Attorney.

CONSIDERATION OF: FALCON ACRES (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, said that Eli & Associates, the developers representing the owner of Falcon Acres, requested that the consideration of Falcon Acres be delayed until next Wednesday's Public Meeting.

Ann Mary Dussault moved and Barbara Evans seconded the motion to delay consideration of Falcon Acres until the Public Meeting on January 26, 1994.

Michael Sehestedt, Deputy County Attorney, suggested that while the Commissioners may delay the consideration of the plat, they may still take testimony.

Ted Arstad said he and his wife own four acres east of the proposed subdivision. He wondered what the developer would do about water for the subdivision? He said he has tried two times to do a well adjacent to this property. He has drilled 680 feet and was unable to get water. Other owners have concerns as well. A house that was built west of the property in question got water from Indreland Lane. He said he has had discussions with a hydrologist from the University of Montana who indicated that their maps show little or no water in this area. He said the best they could manage was to obtain water from a quarter of a mile away. However, he couldn't afford the system.

Ann Mary Dussault withdrew her previous motion with agreement from Barbara Evans.

Ann Mary Dussault moved and Barbara Evans seconded the motion to continue the consideration of Falcon Acres until the Public Meeting on January 26, 1994, based on the fact that the developer requested the continuation. The motion carried on a vote of 3-0.

CONSIDERATION OF: MOUNTAIN ACRES (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that this proposal is for a 2-lot division of Lot 9 of Mountain Acres No. 2, located in the SW 1/4 of Section 35, Township 13 North, Range 18 West, or northeast of the Turah Interchange off I-90 about ten miles east of Missoula. The original Mountain Acres No. 2 is a 13-lot subdivision that was platted in 1966. Lot 9 of Mountain Acres No. 2 covers a total of 2.59 acres; it is a corner lot and fronts on both Timber Edge Drive and on Mountain Drive. The proposed Lot 9A will be 1.49 acres in size, and Lot 9B will be 1.10 acres. At this time, a home is under construction on Lot 9A, and a foundation is being dug on Lot 9B. Both streets are County maintained gravel streets within a 60-foot public right-of-way.

The 1975 Missoula County Comprehensive Plan recommends this area may be developed up to a maximum of two dwelling units per acre. However, health regulations will establish densities where individual wells and septics are used, as is the case with this subdivision. This designation is primarily encouraged within activity centers and community focal points. Turah is an unincorporated town that has grown, mainly north of the I-90 Interchange, in the vicinity of this proposal.

The Office of Community Development staff recommended that the summary plat of Mountain Acres No. 2 Lots 9a and 9b be approved, subject to the following conditions:

1. Grading, drainage, erosion control, and driveway plans shall be approved by the County Surveyor. *Article 3-4 (1) (B), MCSR*

2. The 60-foot right-of-way area shown on the plat shall be labeled "public right-of-way and public utility easement." *Article 3-2 (8) (C), MCSR*

JANUARY 19, 1994 (CONT.)

3. The developer shall provide drainage plans for the proposed Lot 9A that show positive drainage around the house, addressing concerns from the existing drainage culvert in Timber Edge Drive, to be approved by the County Surveyor. *Comments of County Surveyor.*

4. A $50 fee per lot shall be paid to the Missoula Rural Fire Department toward the purchase of a large diameter fire hose. *Comments of Rural Fire Chief.*

The developer requested a variance to Article 3-2 (9) of the Missoula County Subdivision Regulations, which states that off-site primary access roads that are 500 feet or less to the nearest publicly maintained paved road shall meet the standards of Article 3-2 (Streets, Access, and Transportation) and 3-4 (Grading and Drainage). Article 3-2 (5) states that the governing body may grant a variance to the paving requirement, if in their opinion it is warranted.

The following information accompanied the variance request to Article 3-9 (2):

Explanation of hardship: The two proposed lots are within a subdivision that has been served by County maintained gravel surfaced roads since the 1960's. After this lot split, roughly 15% of the travel on Mountain Drive will be attributed to these two lots. It is unreasonable to require them to bear the financial burden of paving the roadway when the majority of benefit will go to other lots in the neighborhood.

Mitigating effort: The owners are willing to forego their right to protest a future RSID for paving.

Justification of no harm to public: Mountain Drive and Timber Edge Drive provide slow speed access to a small neighborhood in Turah. Average daily trips down Mountain Drive are estimated at just under 100. The public will not be harmed by leaving these roads graveled.

This subdivision is located outside of the non-attainment area. The County Surveyor agrees with approval of the variance request if an RSID waiver statement is placed on the plat. This staff report recommended approval of the variance request with the following condition included:

> The following shall appear on the face of the plat and in each instrument of conveyance: "Acceptance of a deed for a lot within this subdivision shall constitute assent of the owners to any future RSID for paving or upgrading of Mountain Drive and Timber Edge Drive and may be used in lieu of their signatures on an RSID petition." *Article 3-2 (9) (B) (1) and 3-2 (9) (C) (2) (b), MCSR.*

The consideration of Mountain Acres was opened to public comment.

John Kellogg, of Professional Consultants, Inc., stated that they were in agreement with the proposed conditions.

Elvin Smith, resident at 3350 Timber Edge Drive, located across from the proposed subdivision, said the proposal stated that the lot split is being done so that his daughter can live on one of the lots. He said he had been informed that the owner had already tried to sell this lot with the unfinished house. He said he was concerned with siting of the homes on the north side of the property which would allow for potential future splits of both lots. According to the covenants, the lots may only be split once.

Charles Hunn, Jr., resident of a lot adjacent to the property in question, commented on a proposed roadway across Lots 9A and 9B. He said there is access all around the subdivision. There is no reason to have an extra road in there.

Ron Ewart said from the information he was given, Lot 9B is accessed by Timber Edge and Lot 9A is accessed from Mountain Drive; each would be accessed by a regular driveway. He said the County is not advocating future lot splits. He said it was anticipated that Mountain Acres would abide by the existing covenants. However, as a matter of practice, the Office of Community Development tries to look into future. They try to encourage the siting of homes so that if further density allows, more homes can be sited on the property. He said OCD was not indicating that the property would be divided further.

Charles Hunn said these future lot splits have not been approved. He said the residents have all obeyed the covenants and would like the character of the area to stay rural.

Nancy Hunn said the residents were told they could not divide the lots more than one time. The residents want to keep that way. There is no need for it to change.

JANUARY 19, 1994 (CONT.)

Marcia Johnson, a resident near the property in question, said the area runs between the freeway, the railroad and the mountains; it is a very narrow strip. The growth in the last two years has been tremendous. The entire area has been subdivided into such small parcels, yet there are no community water or sewer systems. The problem will continue because of the amount of individual wells. How many more septic systems can this area take? This could be a future Linda Vista. She wondered if more planning could be done before more homes are placed? There must be a decision made as to whether or not the area can afford more growth. There have been 18 new homes within the last two years. There has been a history of water problems. Because of the runoff each year, the road becomes impassable and the water drains into the property in question. The damaged road, access, water and sewer, must be dealt with. Now is the time to stand back to see if the area can handle more development. She wondered if the property could actually handle two residences; the basements have already been dug.

George Kamp, resident, expressed concern over the second division of property. The covenants are clear--each lot can only be divided once. There is a provision to change the covenants after 25 years and 10 years after this.

Barbara Evans asked Horace Brown, County Surveyor, to address the residents' concerns on the drainage.

Horace Brown said the conditions require that the developers take care of the drainage problem.

Barbara Evans referred to comments submitted by Horace Brown who indicated that there should be positive drainage around the home proposed for Lot 9A; approach permits were also required. She wondered what could be done if the water did not originate on the lot in question?

Horace Brown stated that Condition #3 requires that the developer provide drainage plans for Lot 9A to show positive drainage around the house. The water must not drain into the house whether it comes from across the road or on the lot itself. The water must drain away from the foundation.

Barbara Evans spoke about drainage problems she had had in the past. When the water no longer drained into her house, it went down the hill to someone else's home.

Horace Brown said the water crosses Lot 9A; the water will end up in the basement if it is not designed to handle the water.

Fern Hart closed the consideration of Mountain Acres to public comment and questions. She said the area is unzoned. The homeowner's covenants allow each lot to be split once. This is the first split of Lot 9. The only way the covenants can be changed is by the homeowners. Where there are individual septic systems, a lot cannot be smaller than one acre in size. Both proposed lots are over one acre in size. There is no plan for a road through this property along the lot line; there will only be driveways accessing the homes. She said it is incorrect to begin building before the subdivision is approved.

Ron Ewart said the regulations state that the developer must wait to begin construction until after approval.

John Kellogg said there is a culvert crossing Timber Edge Drive that drains onto the property. He said it is their intention to raise the foundation to at least the level of the street in order to allow drainage to the northwest and to the southwest of the property. He said the developer located the homes on the northeast portion of property due to the drainage; he does not intend to split the property further. He explained that the comment relative to splitting the lots further was mentioned by staff. There is a concern by the County that the area have the potential to be split further. They want to make sure that the siting of the homes will not prevent future lot splits. At some future point in time, the splits may be encouraged. They cannot split the property with the current covenants and conditions. He said the reason the developer is building now is for his daughter will live on Lot 9A. Prior to subdivision, the lot in question is a single lot with a single family home. He has indicated no immediate intention of selling the other portion; however, it may happen after this subdivision is approved. The foundation on Lot 9B has been excavated. If the subdivision does not go through, there will only be one home; the plans for the second home will be abandoned. Regarding the drainage, the developer will apply for an approach permit for the driveway where a culvert will be placed. At this point, there is no well-defined drainage coming down Mountain Drive. However, eventually if the County improves Mountain Drive, there may be a more substantial swale placed there to take drainage along the roadway. He said they intend to make sure the design of the foundation will direct the drainage to seep into the soil. Most of the drainage will be handled on the property.

A discussion ensued relative to the right-of-way. There is 60 feet of right-of-way which will be enough for the County's proposes.

Barbara Evans asked if Mr. Kellogg had informed his clients about the risks of building before the subdivision is approved?

JANUARY 19, 1994 (CONT.)

John Kellogg said yes, his client was fully aware of this. However, he said his client is building on the basis of single ownership to his daughter. If the subdivision is not approved, the excavation for the future house on Lot 9B would be abandoned.

Glen Stensrud, resident, said according to the covenants, the land can be split; however, the building also has to coincide with the surrounding area. He said he is a home builder in Missoula and would be very surprised if the house did not fall down in the next five years due to the water problems and the construction standards of the builder. There are no County controls for building in this area. He said there are traffic problems as well; the road services 30 homes and has not been paved.

Randy Johnson, a resident who owns an excavating business, said the County should take a better look at the drainage on Mountain Drive. The ground slips away from road to the property in question. He said it is going to cost quite a bit for the County to put in a ditch to handle the runoff. Ice builds up on Timber Edge Lane in the spring which also causes problems. The County should take another look at the drainage. The existing building will cause problems.

Charles Hunn commented about the proposed home on Lot 9B; the walls will be about 12 feet from his fence. Two homes will be close together with 50 feet between them. This is out of character with the neighborhood. It is too late to change this now, but the planning has been bad.

Fern Hart said because this area is not zoned, there are no sideyard standards or setbacks. The homeowner's covenants are between the homeowners; the condition of the kind of homes that are built is also a consideration for the homeowners. The County does not enter into these covenants with the homeowners. She asked Horace Brown about the drainage problem and if this was a potential County cost?

Horace Brown said the cost will be on the landowner since it is on their property. The drainage problem is on Lot 9A. However, the water may go to the next neighbor and could cause flooding.

Barbara Evans asked if there were plans to pave this road in the future?

Horace Brown said not in this century.

Fern Hart said the conditions require a paving waiver for an RSID to upgrade this road.

Horace Brown said there are 30 homes that could support an RSID to pave this road. An RSID is probably the only mechanism through which the road would get paved.

Fern Hart said the residents have an opportunity to do their own RSID to upgrade the road.

Barbara Evans said a dilemma exists for the Commissioners even though further individual septic systems may affect the aquifer, the Board must respect the owner's right to develop their property.

Michael Sehestedt said if there are problems resulting from particular identified septic system, then the owner of the system may have personal liability to all who are adversely affected. It is a risk that all residents on septic systems assume. If it can be established that the system isn't functioning properly, the homeowner would bear the cost. He said the questions on whether or not there is an adequate and provable site for an installation of a septic system on either one of the proposed lots and whether or not it can be done without further degrading water quality, is a question vested by statute in the State Water Bureau. The Bureau is in the course of adopting more stringent non-degradation of the aquifer standards. Domestic water on a site is subject to existing water rights and is an issue administered by the Water Rights Bureau by the Department of Natural Resources. Clearly, when the Commissioners grant approval of a subdivision, approval is first conditioned upon the approval from State Health Department as well as the local health authorities as to sub-service sewage disposal. Anyone developing the lot who wishes to put in a well will have to deal with the Department of Natural Resources and obtain a groundwater appropriation permit. If the Commissioners deny the request to the split the property because others have used up the capacity of the area, the person may be entitled to compensation from those who have used up the capacity. He said this is a complicated issue. The principal concern is public health and safety which will be assured by the non-degradation standards under the State Board of Health.

Ann Mary Dussault said the original subdivision, which was done in 1966, split the parcel into 13 lots of over 2 acres in size. At least lots 2, 6, 12, and 13 have already been subdivided into two parcels. The owner of Lot 9 is asking for the same right exercised by the other lot owners.

Barbara Evans said while the Commissioners hear and are concerned with what the residents are saying, the Board has a dilemma. The Commissioners must respect the owner's right to develop their property. She said

she is well aware of the concerns about drainage. However, the right to determine these things rests in the hands of the Health Department and the State Water Quality Bureau.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the summary plat of Mountain Acres No. 2 Lots 9a and 9b based on the findings of fact and subject to the following conditions:

1. Grading, drainage, erosion control, and driveway plans shall be approved by the County Surveyor.

2. The 60-foot right-of-way area shown on the plat shall be labeled "public right-of-way and public utility easement."

3. The developer shall provide drainage plans for the proposed Lot 9A that show positive drainage around the house, addressing concerns from the existing drainage culvert in Timber Edge Drive, to be approved by the County Surveyor.

4. A $50 fee per lot shall be paid to the Missoula Rural Fire Department toward the purchase of a large diameter fire hose.

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

> "Acceptance of a deed for a lot within this subdivision shall constitute assent of the owners to any future RSID for paving or upgrading of Mountain Drive and Timber Edge Drive and may be used in lieu of their signatures on an RSID petition."

The motion carried on a vote of 3-0.

Barbara Evans suggested that the developer very carefully have the drainage engineered to save himself a lot of problems.

Ann Mary Dussault said 1966--the year the subdivision was done--was a long time ago. Things have changed since the subdivision was originally approved. She said when neighbors rely on covenants, this leads the neighbors to believe they have more protection than they really do. Covenants are really nothing more than a handshake between neighbors and don't offer any type of protection. She said the time has come for County-wide building codes. Building shouldn't go on without building codes. The time has come for this neighborhood to look at zoning which will give protection this area needs. Zoning allows for the regulations concerning setbacks, etc. She said the County has invested a great deal of time, effort and money into understanding aquifers and protecting groundwater. She said she felt there would be a change in septic regulations in the next year. However, these changes must come based on data which is currently being collected. She said this does not suggest that the resident's issues are not of concern, but the way to address these concerns is not through denial of the subdivision. Clearly, the property owner has the right to split the land.

Barbara Evans moved and Ann Mary Dussault seconded the motion to grant the variance to Article 3-2 (9) of the Missoula County Subdivision Regulations, which states that off-site primary access roads that are 500 feet or less to the nearest publicly maintained paved road shall meet the standards of Article 3-2 (Streets, Access, and Transportation) and 3-4 (Grading and Drainage), based on the fact that there is a waiver of a right to protest a future RSID for paving. The motion carried on a vote of 3-0.

A member of the audience thanked the Commissioners for providing a forum for the residents to gather information and commented that not they are not protesting this split of land, rather, they are concerned about the potential of future divisions and the effects of this on the water.

Ann Mary Dussault explained the majority of divisions that have taken place have been subdivided through the Certificate of Survey process. The splits have not gone through subdivision review. This is the worst way to divide land because there is no provision for looking at public services, water, access, etc. The majority of COS's are done with because of the passage of new legislation. This doesn't mean there won't be requests for divisions, but they will be done better than in the past. She encouraged the residents to look into zoning for the area.

HEARING: INTENT TO CREATE RSID 8457 - CONSTRUCTION OF ROADWAY IMPROVEMENTS TO PORTIONS OF HUMBLE & SUNDOWN ROADS

John DeVore, Missoula County Administrative Officer, explained that a petition was received with 85% freeholder approval to construct roadway improvements to Humble and Sundown Road. The total estimated cost of the RSID is $110,000.00 with the district cost set at $90,000.00 and the County contribution set at

$20,000.00. Three letters of protest were received within the protest period. The staff recommended RSID No. 8457 be created.

The hearing was opened to public comment.

John Milodragovich, resident of 4631 Sundown Road, said the residents have been working with County for the last three years in an attempt to improve the road. The road is dusty when its dry and muddy when its wet. In order to abate the dust, various landowners have had to apply dust oil, etc. The neighbors are concerned about the aquifer and what has been put on the ground. He said with help from the Commissioners and the good response from the neighborhood, they have been able to set up the RSID. At their neighborhood meeting to petition for the RSID, there were only five landowners of record who objected to the project. The primary objection was that this project would lead to more subdivision of the land and they wanted to preserve the rural setting.

Harold Ed Hogan, resident, agreed with Mr. Milodragovich's comments and spoke in favor of ground water protection. This project will do this. People have the right to object, but some of the objection is for the fact that they own more property and will be assessed accordingly. He hoped the Commissioners would not use this argument to deny the project. It is time for the road to be paved. He urged the Commissioners to vote in favor of the project.

There being no further testimony, the hearing was closed to public comment.

Fern Hart commented that three letters of protest have been received and are in the record. There being no further testimony, the hearing was closed to public comment.

Barbara Evans asked if either Horace Brown, County Surveyor, or Terry Druyvestein of DJ&A, were able to contact Mr. Fisher who wrote a letter in opposition to the project.

Terry Druyvestein, project engineer, said he had talked with Mr. Fisher as well as two or three other people. He said after the RSID is formed, they will meet with these people in the pre-design stage to address their concerns. To the extent that is possible under the RSID, they would try to address these problems. He said Mr. Fisher had two problems; one they could address in the RSID and one they wouldn't be able to address because it is an irrigation ditch problem.

A discussion ensued relative to those who protested. Letters of opposition were received from Merlin Fisher, Alice and Briggs Austin, and Mr. Peckerich.

Michael Sehestedt stated that the Resolution of Creation had been previously done. The action should be either to create or deny the creation of RSID No. 8457.

Barbara Evans moved and Ann Mary Dussault seconded the motion to create RSID No. 8457 for roadway improvements to Humble and Sundown Road, with the County contribution being $20,000.00, based on the fact that 85% of the freeholders requested the creation of the RSID. The motion carried on a vote of 3-0.

CERTIFICATE OF SURVEY REVIEW: AGRICULTURAL EXEMPTION/FAMILY TRANSFER & BOUNDARY RELOCATION (TAWNEY) COS 3798

Colleen Dowdall, Deputy County Attorney, explained that Phil Tawney requested a lifting of an agricultural exemption on a portion of the property, a boundary relocation and use of the family transfer exemption. Mr. Tawney owns two parcels totaling 25 acres in Pattee Canyon. Mr. Tawney requested that the agricultural covenant be lifted and that he be granted a boundary relocation to change the location of this parcel. In addition, he requested a family transfer exemption to transfer a parcel to his spouse and to his son, leaving the parcel the house is located on as a remainder. Mr. Tawney is very ill and is attempting to do some estate planning.

Andy Fisher stated if the agricultural exemption is lifted, they would be willing to put a no-improvement zone to keep the lot non-buildable.

Michael Sehestedt, Deputy County Attorney, said this could be a condition of approval. The parcel has no significant history of divisions and there is no personal history on the part of the applicant, Phil Tawney or his wife, Robin, for using exemptions to the Subdivision and Platting Act.

A discussion ensued relative to the wording for a motion which would include the lifting of the agricultural covenant and a provision for a no-build zone on this same parcel. It was concluded that a motion could be worded with language requesting that a no-build zone be shown on the face of the Certificate of Survey. This would be drawn on the COS indicating where the no-build zone would be located.

JANUARY 19, 1994 (CONT.)

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the request to remove the agricultural covenant located on Tract 2 of COS 3798 and that the landowner replace the covenant with a no-build zone which shall be indicated on the plat. The motion carried on a vote of 2-0 with Fern Hart abstaining from the vote due to a conflict of interest.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve a request submitted by Phil Tawney for the use of the following exemptions to the Subdivision and Platting Act, based on the finding that the request does not attempt to evade the Montana Subdivision and Platting Act, but is for the purpose of estate planning:

1) Tract A (5.4 acres), a relocation of boundary, (previously the agricultural exemption in COS 3798;

2) Tract B (5.0 acres), to the applicant's wife, Robin Tawney, by use of the family transfer exemption;

3) Tract D (5.6 acres), to be transferred to an adult son, by use of the family transfer exemption; and

4) Tract C (10.5 acres), shall be the remainder which contains the family residence.

The motion carried on a vote of 2-0 with Fern Hart abstaining from the vote due to a conflict of interest.

There being no further business to come before the Board, the Commissioners were in recess at 3:20 p.m.

JANUARY 20, 1994

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

Audit List

The Board of County Commissioners signed the Audit List, dated January 19, 1994, pages 2-37, with a grand total of $202,343.01. The Audit List was returned to the Accounting Department.

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Ray Lynn as principal for warrant #46177, dated September 22, 1993, issued on the Missoula County High Schools fund in the amount of $ 21.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Service Contract (the annual Right-to-Know Contract) between Missoula County and Shannon Environmental, an independent contractor, for the purpose of preparing a list of facilities to be notified of filing requirements for the current year and deliver the same to Disaster and Emergency Services, as per the items and terms set forth, for the period commencing the first day of January, 1994, through October 31, 1994, for compensation in the amount of 100% of the fees collected. The Contract was returned to Orin Olsgaard, DES Coordinator, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 21, 1994

The Board of County Commissioners met in regular session; all three members were present in the morning. Commissioner Hart left in the forenoon to attend a Mental Health Board meeting at Fort Missoula, and Commissioner Evans was out of the office all afternoon.

JANUARY 21, 1994 (CONT.)

Indemnity Bond

Acting Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming the U. S. Postal Service as principal for warrant #247681, for the period expiring 7/21/93, on the Missoula County General Fund in the amount of $75.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-010

The Board of County Commissioners signed Resolution No. 94-010, a resolution relating to $417,000 Workers' Compensation refunding bonds, Series 1994A (tax supported; authorizing the issuance, awarding the sale, determining the form and details, authorizing the execution and delivery and levying taxes for the payment thereof.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

JANUARY 24, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Evans was in Phoenix, AZ where she attended an Airport/Industrial Park/Foreign Trade Zone Development Workshop.

DAILY ADMINISTRATIVE MEETING

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

Agreement

Chair Hart signed an Agreement between Missoula County and The Montana Department of Health and Environmental Sciences for the purpose of inspecting and testing small public water supplies to ensure their safety, as per the items and terms set forth, for the period from January 24, 1994, through June 30, 1995, with total payments by DHES for all purposes under this Agreement not to exceed $37,800.00. The Agreement was forwarded to the DHES in Helena.

Resolution No. 94-011

The Board of County Commissioners signed Resolution No. 94-011, a resolution resolving that the Clerk & Recorder prepare and publish and post notices of the Order of Sale of Tax Deed Property, which was acquired on January 20, 1994, and described on the list attached to the Resolution, setting the Sale for February 9, 1994, at 1:30 p.m. in Room 201 of the Missoula County Courthouse.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 25, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Barbara Evans was on vacation through Friday, January 28th.

DAILY ADMINISTRATIVE MEETING

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

Budget Transfers

The Board of County Commissioners approved and signed the following Budget Transfers and adopted them as part of the FY'94 budget:

JANUARY 25, 1994 (CONT.)

1) no. 94007, a request from Financial Administration to transfer $252,323.00 from various General Fund Departments (listed on the attachment to the original transfer in the Budget File) for the purpose of salary increases; and

2) no. 94008, a request from Court Operations to transfer $48,319.00 from various District Court Departments (listed on the attachment to the original transfer in the Budget File) for the purpose of salary increases.

Resolution No. 94-012

The Board of County Commissioners signed Resolution No. 94-012, a resolution granting an agricultural exemption to Donald F. and Vivian L. Klepper for a portion of the E1/2 NW 1/4 of Section 26, T15N, R20W (approximately 22.5 acres), as the Kleppers propose to continue to use the above-referenced portion of the parcel for continued use as pasture ground and to gift the property to their son, Donald K. Klepper.

Resolution No. 94-013

The Board of County Commissioners signed Resolution No. 94-013, a resolution relating to economic development revenue bonds (Rocky Mountain Elk Foundation Headquarters Project), Series 1994; making findings, authorizing the sale and issuance of the bonds and establishing the security therefore and authorizing the execution of documents.

Other items included:

the Commissioners authorized Wayne Heintz of Larchmont Golf Course to proceed with the City Parks and Recreation Project, and concurred with the Larchmont Board of Directors that he be authorized to contract with Parks and Recreation regarding the landscaping by Larchmont Golf Course.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 26, 1994

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

Audit List

Commissioners Hart and Dussault signed the Audit List, dated January 25, 1994, pages 3-32, with a grand total of $243,367.79. The Audit List was returned to the Accounting Department.

PUBLIC MEETING

The Public Meeting was called to order by Commissioner Fern Hart at 1:30 p.m. Also present was Commissioner Ann Mary Dussault.

BID AWARD: SALE OF LAND (OLD ASPHALT PLAT) - SURVEYOR

Fern Hart explained from information received from Horace Brown, County Surveyor, that on January 25, 1994 at 10:00 a.m., bids were opened for the transfer of the asphalt plant land to the highest bidder, restricted to bids of $240,000 or more, with the following results:

Washington Development Company, Inc.	$240,000

The staff recommended that the land be sold for the minimum bid of $240,000 to Washington Development Company, Inc.

Michael Sehestedt, Deputy County Attorney, explained that the parcel is 2.74 acres located across the road from the County shop which previously had the asphalt plant located on it. It does not front on Reserve Street, but fronts on Raser Drive. The appraised price was $240,000. The County is legally authorized to sell it for the appraised price. In this case, the only offer was the appraisal which is almost double what had previously been offered for the property at private sales.

Ann Mary Dussault said the appraisal was completed in November of 1993.

JANUARY 26, 1994 (CONT.)

Ann Mary Dussault moved and Fern Hart seconded the motion to award the bid for the asphalt plant land to Washington Development Company, Inc., the highest bidder, in the amount of $240,000. The motion carried on a vote of 2-0.

CONSIDERATION OF: FALCON ACRES (SUMMARY PLAT) CONTINUED FROM JAN. 19TH

Ron Ewart, Planner at the Office of Community Development, stated that the developer's representative requested that the consideration of Falcon Acres (Summary Plat) be delayed until next Wednesday's Public Meeting on February 2, 1994.

Fern Hart asked if there was any public comment. There was none.

Ann Mary Dussault moved and Fern Hart seconded the motion to delay the consideration of Falcon Acres (summary plat) until the Public Meeting on February 2, 1994. The motion carried on a vote of 2-0.

CONSIDERATION OF: PACKWEST ADDITION (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that Packwest Addition is a proposed 5-lot subdivision located in the NW 1/4 of Section 2, T12N, R20W, on Blue Mountain Road approximately 1/2 mile northwest of US Highway 93. The size of the parent parcel covers 20.46 acres. This proposal is to create 4 lots for single family residential purposes and one lot for utility purposes only. This proposed utility lot is to be 10 acres in size, it contains two existing radio broadcast antennas for KGVO Radio, and will not be developed for residential purposes. The four lots proposed for residential purposes consist of three lots of just over one acre each in size, and one lot just over seven acres in size. The building sites on the four residential lots are shown on a bench overlooking the Bitterroot River bottom land, where are the radio are located. There is an existing single family residence on the proposed Lot 4.

Sewer and water are proposed to be provided by individual on-site systems. This area is currently unzoned and the Missoula Urban Comprehensive Plan, 1990 Update, designates it as "Suburban Residential", recommending a density of up to two dwelling units per acre. The surrounding land uses are vacant/ agricultural to the north, east, and west, and low density residential to the south.

The Office of Community Development staff recommended that the summary plat of Packwest Addition be approved, subject to the following conditions:

1. Paving, drainage, erosion control, and street and driveway location plans shall be subject to approval of the County Surveyor. *Article 3-2.*

2. The developer shall file Property-owner's Articles of Incorporation and By-Laws with proof of filing with the Secretary of State, or the developer shall develop a Road Maintenance Agreement to address private road maintenance. *Article 3-2 (6).*

3. All easements shall be shown on the face of the plat. The width shall meet County standards or a letter shall be submitted from the appropriate utility companies approving any narrower width. *Article 3-6.*

4. An easement for Big Flat Ditch shall be granted to the appropriate agency, the width approved by the appropriate agency, and the easement shall be shown on the face of the plat. *Article 3-6.*

5. Cash-in-lieu of park land shall be paid into the County Park Fund, the amount of which shall be determined by the County Assessor and stated on the plat. *Article 3-8 (D).*

6. Areas with grades of 25 percent or greater and the entire area to the north of the slope shall be deemed unsuitable for building sites or road construction. These areas shall be labeled on the plat as no-build/no excavation zones. *Article 3-1 (2) and 3-3 (1).*

7. Lot 5 shall obtain a deeded access easement from a public access easement or right-way to the property, or it shall be proven that legal access does exist for Lot 5. *Article 4-1 (10)(A-D).*

8. A fee of $50 per lot shall be paid to the Missoula Rural Fire District toward the purchase of a large diameter fire hose. *Comments of the Rural Fire Marshal.*

9. The developer shall name the private drive subject to approval by the County Surveyor. A standard street sign with the name of the private drive and Blue Mountain Road shall be installed by the developer. *Comments of the County Surveyor.*

JANUARY 26, 1994 (CONT.)

10. The private access easement, labeled Tiberius Drive, shall have a curved radius to eliminate the necessity of a 90 degree curve and the cul-de-sac shall extend to Lot 4. The plans shall be approved subject to approval of the County Surveyor and the Rural Fire Chief. *Comments of the County Surveyor and the Rural Fire Chief.*

11. The developer shall recommend that homeowners obtain a copy of "Living With Wildlife." This brochure is designed to develop a more peaceful coexistence between humans and wildlife. A copy may be obtained from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 58902, or from the Rural Planning Office, 200 West Broadway, Missoula, MT 59802. If covenants are proposed, they shall include this recommendation. *Comments of Fish, Wildlife, & Parks.*

Ron Ewart added that Andy Fisher of Eli & Associates provided information relative to Condition #4 which required that the developer provide information showing an easement for the Big Flat Ditch. Regarding Condition #7, he said they received information showing there is a deeded access easement from a public access easement to the property. Conditions 4 and 7 have been satisfied.

Andy Fisher, Eli & Associates, requested that Condition #4 be eliminated because the information had been gathered.

Ron Ewart said the information Mr. Fisher provided seemed to be legitimate.

Andy Fisher requested additional language to Condition #6, "Areas with grades of 25 percent or greater and the entire area to the north of the slope shall be deemed unsuitable for building sites or road construction **without further review**." He said the Comp Plan calls for two sites to the acre. If sewer becomes available in this area, the proposed language would permit further expansion.

Fern Hart said the Commissioners would take comments from the public.

Ann Mary Dussault asked they could if Conditions #4 and #7 have been satisfied, could they appropriately be deleted?

Colleen Dowdall said if they have been satisfied. The condition required that the easement be shown on the face of the plat which will still happen.

Andy Fisher said all easements will be shown on the face of the plat.

Ron Ewart said it is a standard regulation that easements be shown on the plat. Regarding Condition #7, he recommended that the condition be left in for now. A 20 foot wide access easement is shown from Blue Mountain Road; there was a question as to whether or not there was access to Lot 5 from Highway 93 from Big Flat Ditch. He recommended that Condition #7 be left in the conditions to investigate further whether other access exists off Highway 93. This is a much more logical approach than from Blue Mountain Road. It is a good idea to leave Condition #7 in the conditions.

Andy Fisher said the 20 foot wide easement is the existing deeded access. This only goes to the ditch and will have to be extended to get to Lot 5. Currently, to get to the antennae site, everyone uses the road along the ditch. He wondered about the public's right to do this because the easement is for power, ditch maintenance, etc.

Colleen Dowdall asked if the Big Flat ditch is an appropriate access? The only alternative access is the 20 foot easement which doesn't quite get to the lot.

Andy Fisher commented that the owner of the subdivision would have to grant the easement for the additional right of way.

Ron Ewart said the road accesses from Highway 93. The question is whether or not this is legal access? It is currently being used.

Ann Mary Dussault said Condition #7 had not been satisfied.

Ron Ewart said it has to some degree; it is shown on plat as a 20 foot access coming from Big Flat ditch. He said the staff is interested in whether the existing road off Highway 93 is a legal access. If the developer can't get legal access, then at least there is access from Blue Mountain Road. The access is only 20 feet wide and would probably would have to be widened.

Fern Hart said it is important to know whether there is legal access off Highway 93.

JANUARY 26, 1994 (CONT.)

Ron Ewart said this is the access that is being used. The access that is shown on the plat is a difficult access to use because it goes down a steep slope and crosses the ditch. He recommended that Condition #7 be left in. For purposes of meeting the subdivision regulations, it has been met. However, he said they should get more information.

A discussion ensued regarding Lot 5. The radio towers located on Lot 5 are not in the floodplain. The area is in the Comp Plan, but is unzoned.

Ron Ewart explained why the staff felt that the low area was unsuitable for building sites: 1) there are a lot of cattails which indicates standing water. The floodplain is not far away. In reality, the floodplain could be plus or minus some distance. If there were a flood, this area could become flooded; and 2) any access to this lower area from Blue Mountain Road would have to go down the steep slope. A road couldn't be built that would meet grade standards. This is not contemplated anyway.

A discussion followed relative to the improvement of Blue Mountain Road. It was concluded that the subdivision in question would not affect what the County plans to do and it is not the same property owner.

Ann Mary Dussault referred to the request made by Andy Fisher concerning the added language to Condition #6, "without further review". She said if the language is allowed, they need to designate building sites on each lot so there is a potential to divide the lots in the future. Either the condition is left as-is or no build zones should be designated to accommodate future splits.

In the discussion that followed, it became apparent Andy Fisher was referring to the bottom land on Lot 2 rather than on Lot 5.

Andy Fisher said the upper lots are pretty tight to split. He said he was thinking of Lot 2; the language he suggested would not preclude future division. This option would remain open.

Ann Mary Dussault said in the future, someone could come in and request a division of land.

Colleen Dowdall said a no build area would never be developed. The reason for the no-build area on the map was because the area was low-lying with possible water and slope.

Andy Fisher said some of the area at the bottom of the slope of Lot 2 is low lying, but not all of it. If sewer comes, this land could be split. The language he proposed would not preclude further subdivision. The request would have to go through review again.

Colleen Dowdall asked if the developer would object if the condition permitted development of the lot in the future.

Andy Fisher said no. After suitable review, development should not be precluded.

A discussion ensued concerning Lot 5; radio towers will be located on Lot 5. A house will be sited on the bench on Lot 2 with potential in the future for further lot splits on the bottom land.

Ann Mary Dussault moved and Fern Hart seconded the motion to approve the summary plat of Packwest Addition based on the staff's recommendations and the findings of fact.

Ann Mary Dussault moved and Fern Hart seconded the motion to amend the original motion by deleting Condition #4 and renumbering the subsequent conditions. The amendment passed on a vote of 2-0.

Ann Mary Dussault moved and Fern Hart seconded the motion to amend Condition #6 (now Condition #5) with the following language:

> Areas with grades of 25% or greater shall be deemed unsuitable for building sites or road construction. These areas shall be labeled on the plat as no-build/no-excavation zones. The area to the north of the no-build/no-excavation zone of Lot 2 shall not be further divided unless reviewed and approved by the appropriate governing body.

The amendment passed on a vote of 2-0.

The main motion, as amended, to approve the summary plat of Packwest Addition, passed on a vote of 2-0, subject to the following conditions:

JANUARY 26, 1994 (CONT.)

1. Paving, drainage, erosion control, and street and driveway location plans shall be subject to approval of the County Surveyor.

2. The developer shall file Property-owner's Articles of Incorporation and By-Laws with proof of filing with the Secretary of State, or the developer shall develop a Road Maintenance Agreement to address private road maintenance.

3. All easements shall be shown on the face of the plat. The width shall meet County standards or a letter shall be submitted from the appropriate utility companies approving any narrower width.

4. Cash-in-lieu of park land shall be paid into the County Park Fund, the amount of which shall be determined by the County Assessor and stated on the plat.

5. Areas with grades of 25% or greater shall be deemed unsuitable for building sites or road construction. These areas shall be labeled on the plat as no-build/no-excavation zones. The area to the north of the no-build/no-excavation zone of Lot 2 shall not be further divided unless reviewed and approved by the appropriate governing body.

6. Lot 5 shall obtain a deeded access easement from a public access easement or right-way to the property, or it shall be proven that legal access does exist for Lot 5.

7. A fee of $50 per lot shall be paid to the Missoula Rural Fire District toward the purchase of a large diameter fire hose.

8. The developer shall name the private drive subject to approval by the County Surveyor. A standard street sign with the name of the private drive and Blue Mountain Road shall be installed by the developer.

9. The private access easement, labeled Tiberius Drive, shall have a curved radius to eliminate the necessity of a 90 degree curve and the cul-de-sac shall extend to Lot 4. The plans shall be approved subject to approval of the County Surveyor and the Rural Fire Chief.

10. The developer shall recommend that homeowners obtain a copy of "Living With Wildlife." This brochure is designed to develop a more peaceful coexistence between humans and wildlife. A copy may be obtained from the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 58902, or from the Rural Planning Office, 200 West Broadway, Missoula, MT 59802. If covenants are proposed, they shall include this recommendation.

CONSIDERATION OF: SUNNY ESTATES (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that because of new information obtained from the US Forest Service and the Department of Fish, Wildlife and Parks, the Office of Community Development wanted to work with some covenants and get some comments back from the developer. Andy Fisher of Eli and Associates requested that the consideration of the summary plat for Sunny Estates be delayed until the Public Meeting on February 9, 1994.

Ann Mary Dussault moved and Fern Hart seconded the motion to delay the consideration of Sunny Estates - Summary Plat, until the Public Meeting on February 9, 1994. The motion carried on a vote of 2-0.

HEARING: SALMON LAKE SHORE SITES (9-LOT SUBDIVISION) PRELIMINARY PLAT

Ron Ewart, Planner at the Office of Community Development, explained that Salmon Lake Shore Sites is a proposed subdivision that creates nine single family residential/recreational lots from an 83.33-acre parcel located adjacent to Salmon Lake on Highway 83 in Section 32, Township 16 North, Range 14 West. Salmon Lake is about 45 highway miles northeast of Missoula, and 7 miles south of the town of Seeley Lake. The property is bordered by Salmon Lake to the west, State of Montana land and private property to the north and east, and Salmon Lake State Park and Plum Creek Lands to the south. The nine lots are to be located within a 15.05-acre area between the lake and Highway 83. The acreages listed include the 100-foot right-of-way easement for Highway 83. The remainder of the property, 68.28 acres east of the highway, is to remain as open space/common area deeded to the Homeowner's Association.

The ownership of Salmon Lake frontage is mixed, under the US Forest Service, Fish, Wildlife, & Parks, State Highway right-of-way, the Roman Catholic Church, and various private ownerships. There are presently 21 private cabins on the lake, plus Legendary Lodge, and a church camp/retreat. The proposal is to add nine private homesites on the lake. With the exception of the former Camp Fire Girls camp site at the outlet to the lake, this is the only remaining property on the lake available for development.

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Salmon Lake is unzoned. The 1975 Missoula County Comprehensive Plan, Seeley Lake Planning Area, suggests that lands adjacent to lakes in this area are designated for residential development at two units per acre while preserving the fragile nature of the shoreline. Proposed access to the nine lots within the subdivision is via a total of three access points on to State Highway 83. State Highway 83 is well-maintained as compared to some roads to summer homes which are owner maintained. Highway 83 and 200 will be undergoing reconstruction in the next couple of years which will make the commute to Missoula easier.

He said OCD received a letter concerning wildlife from Ann Zimmerman of the Seeley Lake Ranger District. She said that two pairs of bald eagles nested on Salmon Lake. The nest sites were not on the property proposed for development. Common Loons do use Salmon Lake; this year a pair was successful in hatching and raising one chick. Their nesting site was on the west side of the lake, north of the proposed development. In the winter, some deer cross the lake on the ice, traveling from the open feeding sites on the east, to the thermal cover on the west.

The Community Development staff recommended that the preliminary plat of Salmon Lake Shore Sites be approved, subject to compliance with the following conditions:

1. The three access points on to State Highway 83 shall be approved by the Montana Department of Transportation prior to any construction. *Articles 3-1 (1) (E), 4-1 (12), and 4-2 (6) (2)*

2. The developer shall petition for annexation of the lotted portion of the development into the Seeley Lake Fire District prior to filing of the final plat. *Article 4-1 (10) (A); local services.*

3. The Property-owner's Association Articles of Incorporation, Bylaws, Covenants and Restrictions shall be filed with the Secretary of State. They shall bear the certification of the attorney who prepared them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict. *Article 4-2 (6) (F)*

4. The existing highway right-of-way easement shall be labeled "Public Utility Easement". *Article 3-6*

5. Slopes in excess of 25% grade shall be deemed unsuitable for building sites or road construction. A statement prohibiting construction of roads or structures on any such slope shall be stated on the face of the plat. *Article 3-1 (2) and 3-3 (1).*

6. The private road plans for emergency vehicle turnarounds shall be approved by the Seeley Lake Rural Fire District. *Article 3-2 (4)*

7. The covenants shall be approved by the Office of Community Development and Rural Planning Office to address building setbacks, and protection of the common area and wildlife resources.

Consensus of the RPO and OCD is that changes/additions to language in the covenants is needed to protect scenic views from Highway 83, for real, perpetual protection of the common area and for protection of perching trees for eagles, ospreys, and other raptors.

The common private lanes that access the lots are proposed to be constructed to a graveled 12-foot width within a 20-foot private access easement. Dust abatement measures will be accomplished upon construction of the roads. According to Article 3-2 (6), private roads need a 24-foot paved road within a 60-foot easement. Article 3-2 (5) states that the governing body may grant a variance to the paving requirement, if in their opinion it appears warranted. The developer is asking for a variance to this requirement in order to lessen the construction impact and to keep traffic speed to a minimum. The letter from the developer explaining the variance request states that the request meets the criteria for variances outlined in Article 6 of the Missoula County Subdivision Regulations. The staff recommended approval of this request, so long as the following condition is added to the conditions of approval for this subdivision:

8. The access drives shall be paved a minimum of 20 feet back from the roadway. The unpaved portion of the driveway shall consist of a gravel surface which is well drained. *Article 3-2 (8) (F); applies to roads located within the 4 1/2 mile radius of the City limits; with granting of a variance Staff asks the developer to comply even though the project is outside the 4 1/2 mile radius.*

Dick Ainsworth, representing Placid Lake Properties, which is a Montana partnership made up of himself and Lester Turnbull, said the Planning Board approved a recommendation that the Commissioners approve the subdivision.

Ron Ewart said the Planning Board recommended unanimous approval of this subdivision with the conditions of approval attached.

Dick Ainsworth thanked the Office of Community Development and the Rural Planning Office for their assistance with this project.

He said their proposal speaks louder than words as evidence that they share everyone's concerns for long-range protection of the natural and wildlife resources of the area. This is a unique parcel of land with approximately a half mile of frontage on Salmon Lake. It is bisected by Highway 83 which makes it highly visible. He said they have been aware of this from the start and have gone the extra mile in the design and development of the covenants to protect the resources. There is no zoning, but there is the Seeley Lake Comprehensive Plan which addresses the Seeley Lake planning area from the 1975 Comp Plan. The Plan indicates that property around the lakes in the Seeley Lake area (the Plan does not mention Salmon Lake specifically), should be developed at a density of up to two dwelling units per acre. This designation was included to encourage the use of community septic systems. He said this density on the frontage of this property is inappropriate which is reflected in their proposal. After several months of studying and mapping this property, they started developing a plan for the property. At the beginning, they felt they would do ten lots, set aside two or three acres in common area and then develop the balance of the 60+ acres located east of the highway into 10-15 acre tracts. The portion of the property immediately adjacent to the highway is extremely steep, but the property benches up above with spectacular potential building sites. Based on the input from the staff, they revised their proposal by dropping one lakefront lot, making the nine lots approximately two acres in size with an average of 275 feet of lakefront. They also dropped all plans for the development of the 68 acres that lies to the east of the highway. This is about 82% of their entire ownership that will be set aside as common area. All development activity will be prohibited. This will preserve the beauty of this area forever, as well as protect the wildlife that frequents it. In addition, with a good amount of input from OCD and the Rural Planning Office, the covenants were refined to control and direct the development of this property. He highlighted what the covenants will do: restrict all development to single family residences and recreational uses, prohibit any further division of any of the lots; prohibit development completely on the common area; development is restricted to one main residence per lot. A surprising number of folks want to buy a lot for two families and put two cabins on one lot. The covenants will also provide for setbacks from the lake and building restriction lines from the lake which will appear on the face of the plat. The setbacks are from the lake, the highway and the property line and limit and control development on the hillsides. There is some fairly comprehensive language in the covenants dealing with hillside construction which came out of the City's pilot study of the southside of Missoula. Much of the hillside development guidelines were put into the covenants. A good share of the property has a fairly level bench that drops steeply down to the lake that needs protection. The covenants will also limit the height of the buildings, the homes and all buildings will use natural colors in all building materials; control of pets; prohibit use of fire arms within the development; and construction of boathouses are prohibited along the lakeshore. The residents will be able to have a dock. The developers cannot control what is on the lake because it belongs to the State. Language was further added that calls for the protection of potential perching or nesting trees for raptors.

He said there is a lot of language in the covenants that calls for the protection and preservation of the natural environment. Education is the best way to assure care in the development and the use of an area. In addition to the covenants, the developers will also provide all the lot owners with a lot owners' manual. The manual has copies of all documents that relate to the subdivision such as the drainage and drainfield plan, a copy of the Health Department approval, a copy of the covenants, a filed copy of the Articles of Incorporation and the Homeowner's Association By-Laws, a full copy of the 1989 Seeley Lake Comp Plan, a copy of the Living With Wildlife brochure, additional language about the common area and the ongoing protection of the common area, additional language relative to the architectural review committee, the hillside guidelines, additional language about the wildlife in the area and the ongoing protection of it, etc. There is a lot of information provided for the homeowners. If everything concerning the resident's property is included in the book, the homeowners have a guide which they can use. He said that education is critical to the treatment of the property. He said it is their desire to preserve the property to the greatest extent possible. He said they have made no effort to maximize the development potential and have gone the extra mile to insure this will be a quality development.

He addressed the concerns of Lynn Kelly of the Montana Loon Society. The developers were well aware of the loon nesting site located on the northwest end of Salmon Lake when they bought the property. Everyone on the lake enjoys the loons. He said it is their feeling that humans and loons can co-exist. Humans need to understand the loons to make it work. The nesting site is one mile from the property in question in a shallow, marshy area. This end of the lake is the least used by the high speed boaters and jet skiers. He agreed with Lynn Kelly's lack of love for jet skis; they are the scourge of the lakes in Western Montana. He said they would be willing to do anything to outlaw jet skis on all of these lakes; they cannot, however, address jet skis in the covenants. The key is education. Educated property owners are wildlife's best friends. The lot owners' manual is critical for this reason. He said a pair of loons have successfully co-existed with humans on Placid Lake despite the increase in human activity; in fact, they continue to expand. One of the nesting sites on Placid Lake is in close proximity to the State day-use park. It is in a congested area. These loons are protected by

buoys in the spring that say "Loon Nesting Site--Keep Away". People have respected these warnings and it has worked well. He said the visiting public at the campgrounds are more apt to have conflicts with the wildlife than from the permanent residents. The visiting public does not have a vested interest in the lake. For the most part, a permanent resident proves to be a good neighbor and is careful about the way they treat the wildlife.

He said two of the suggested conditions of approval have been met. Condition #2 required that the developers petition for annexation into the fire district prior to the filing of the final plat. A letter was submitted to the Board of County Commissioners and the Rural Fire District asking for annexation. He said the Fire District indicated there would be no problem with annexation. The district boundaries extend 200 feet from the center line of the highway; they must submit a request for annexation of the remaining portions of the property not included in the boundaries. The property has not yet been annexed, but they have petitioned for annexation.

He referred to Condition #7 which dealt with the covenants. After the Planning Board meeting, the developers and the staff at OCD met to propose a set of amendments to the covenants that addressed the concerns they had voiced. The OCD indicated that the developers had satisfied Condition #7.

He requested that the Commissioners consider rewording Condition #5 to read, "Slopes in excess of 25% grade shall be deemed unsuitable for building sites or road construction. A statement prohibiting construction of roads or structures on any slope shall be stated on the face of the plat." He said they have no problem with the intent of the condition, but the covenants have a section which addresses hillside construction. The covenants define hillsides which was obtained from the City's pilot study document. He suggested the following language: "Hillsides, as defined in Article 6 Section 16 of the covenants, shall be deemed unsuitable for building sites or road construction. A statement prohibiting roads or structures on any such hillsides shall appear on the face of the plat." This suggested language basically says the same thing, but relates back to the covenants rather than conflicting with them.

He requested approval with the deletion of Conditions #2 and #7 and the rewording of Condition #5. He said they are willing to do the added Condition #8 as well. The proposed subdivision is well thought out and addresses the concerns voiced by all parties throughout the review process. The proposal has received support from Rural Planning and OCD staff and the unanimous approval of the Planning Board.

The hearing was opened to public testimony.

Wally Congdon represented Bauers and B.O.S.H., Inc. (which stands for the four names of the persons who own the lot), an entity which owns a two acre lot down the lake from the proposed subdivision. He explained that his clients do not have any objections to the development of the property. However, they have two concerns that they would like to see addressed. The first is the comparability of the proposed lots to the B.O.S.H. lot. This is a two acre lot similar to the proposed lots with one substantial difference--it is not at all developable except for use as a parking area through an agreement the lot owners have with Missoula County. The Commissioners previously approved a division of this two acre lot. There has been an ongoing battle with the Assessor's Office and the State of Montana regarding the worth of this property. The residents would like some acknowledgment from the Commissioners that there is a difference between the proposed lots and the other lot which is absolutely not developable according to the agreement that exists with the County. In addition, there is a difference between these lots tax-wise and the lots across the lake because the lots across the lake have no access, which means they have no utilities, fire protection, etc. A number of owners are very concerned that the price of these lots will be determined to be equivalent to the proposed lots, resulting in a huge tax increase. Secondly, B.O.S.H., Inc. and Bauers have a substantial concern amending or changing the covenants in the future. He said he has had discussions with Dick Ainsworth. The developers have done a very good job providing some limitations on the property itself to ensure the amenity values are preserved. The problem or concerns of the residents comes from the fact that nothing prohibits the owners of these properties from changing these covenants, thereby turning what is presently a nine lot subdivision into an 18 lot subdivision. The proposed lots are 275 feet wide. Most lots on Flathead Lake are 50 feet wide. If the lots were subdivided three times, the area could end up as a 27 lot subdivision. Nine lots do not seem to pose a problem; the project and proposal has been well thought out. It seems to provide and preserve the amenities people are concerned with. The neighbors would like a guarantee that down the road, these covenants would not be amended in a manner that allows the amenity values to be damaged. He wondered if this would be done best with a deed restriction or with a separate agreement with Missoula County, or with a provision in the covenants that says part of the covenants cannot be amended. In Section 5 in the covenants, it states that the covenants run with the land for a period of 20 years at which time they will be automatically extended for successive periods of 10 years. They may be amended during the first 20 year period or thereafter by an instrument signed by no less than 51% of the owners. This means if five of nine owners decide they want a boathouse on the lake, they may amend the covenants. If five of nine owners decide they wish to divide their property in half, they may amend the covenants. He said the developer has no objection to making more permanent the covenants in regards to protecting the amenities. He requested that prior to approving the proposal, the Commissioners come up with an agreement of some type that makes the covenants binding on the land.

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There being no further comment, the hearing was closed to public testimony.

Fern Hart asked about Lot 9's existing approach. Has it been used for some time?

Dick Ainsworth explained there is an approach which belongs to the State of Montana, is located adjacent to the property. The turnout was put in for a scenic turnout. The developers propose to use the approach to access one of the lots. The Highway Department indicated there would be no problem.

Fern Hart mentioned an error in the Planning Board minutes regarding future lot splits in the covenants. However, the covenants clearly prohibit further splits. She wondered what islands Lynn Kelly was referring to in her letter?

Dick Ainsworth explained there is more than one island on Salmon Lake; however, there is one island located in front of lots. The island has nothing on it but trees and brush.

Fern Hart asked if something could nest on this island?

Dick Ainsworth said there is a snag located on the island now, but he didn't think the raptors presently nest there. Lynn Kelly was probably referring to a loon nesting site. He said the loons have not used the island, but it could be possible. Loons nest in very low marshy areas. The island doesn't look marshy. Loons do not do very well on land. If a loon lands on the highway that looks like water, it will die if it isn't rescued. The loons nest on very low, marshy ground.

Fern Hart asked if people could take a boat and picnic on the island?

Dick Ainsworth said they did see picnickers using the island occasionally. It is not a large island, it is about the size of a large room.

Fern Hart asked if any water testing was done on Salmon Lake?

Dick Ainsworth said all of the lakes are tested yearly. There has been a substantial amount of testing on the lakes.

A discussion ensued relative to the covenants--Section 4, page 3, where it discussed capital improvements on the common area. The covenants allow the homeowners to clean up the common area. Construction on the common area is not anticipated. The utilities are subject to existing easements. The developers wanted to preserve the right for a drainfield if there is a need for it in the future--although this was not an anticipated problem. This common area is adjacent to State lands which is part of the wildlife range.

Fern Hart asked what could be built on a lot?

Dick Ainsworth explained if a person built a home with a daylight basement, the structure could not be two stories high. The covenants restrict the type of building that can be constructed. He said historically, cabins at lakes were fairly small and rustic. Most residents did not build year-round homes. However, presently people seem to be building a year-round homes. He said he has not seen a single guest house in their subdivision on Placid Lake.

Fern Hart said these residences look to her to be permanent residences. Because the road will be improved, the residents will be able to commute to Missoula. She said because of this fact, she felt that the number of trips had been underestimated. She asked what type of garages might be built on the properties?

Dick Ainsworth said the covenants restricted the size of the garages to three car garages. These folks may be year-round residents because the access is definitely better.

Fern Hart asked if the residents would each have individual docks? Do the residents have to apply to the State to put in a dock?

Dick Ainsworth said the property owners own land to the low water line; the State owns the rest. The residents do not have to apply to anyone to build a dock. At the end of the season, the boats would be pulled out and stored either in a garage or in town.

Fern Hart asked if the nine lots could share docks?

Dick Ainsworth said that in most cases the residents cannot put in permanent docks with piers because the ice will tear it up. The ice moves and takes the end of the dock with it. People usually put in floating or removable

docks that can be taken out of the water. Sharing docks is a possibility, but it depends on the people. The developers cannot try to match compatible people. In theory, it is a good idea, but it is potentially a problem. With the right set of neighbors, it would work.

He clarified the covenants that referred to the special assessments for capital improvements; he said this covenant had been revised to say, "construction, reconstruction, repair or replacement of any improvements or other work deemed necessary upon the common area to preserve and protect it in its natural state or to enhance its vegetation and characteristics...".

Ann Mary Dussault explained that the Commissioners will not be making a decision at today's meeting. The record will be kept open for written comment until noon on Tuesday, February 1st. The hearing will be closed to public comment on Wednesday, February 2nd.

She said there are times when things come to the Commissioners with apparently little or no opposition with the unanimous vote of the Planning Board. The argument is made that approval should keep on going. Often times things come before the Commissioners with overwhelming opposition with a negative vote of the Planning Board. It is argued that the Commissioners in this case should exercise courage. She stated she was persuaded by either argument. She stated she had some deep concerns about this proposed subdivision. Her first concern pertained to the Comp Plan. She stated it was stunning to her that a comprehensive plan in this area would call for a maximum of two dwelling units per acre--unless it was envisioned the area would be sewered. In the event the area is not sewered, it is hard to believe that the proposed density can be argued suggesting that the level of density is consistent with the Plan.

Dick Ainsworth said without question, without some sort of community sewer system, two units per acre can't be done. He said they could have proposed to do this, but it didn't make sense. He said if the area could be sewered, the land still couldn't handle two to the acre. Aside from sewering, the impact of doing two to the acre is overwhelming to the wildlife and the natural resources. He said their overall density is about one unit per nine acres. He said sewered or not, the Comp Plan designation of two units per acre does not make sense in this area.

Ann Mary Dussault said one can still assume that the density was recommended based on the notion of sewering. She said she did not want it implied that this density is okay because the Comp Plan says two per acre, therefore the developers are living within the purposes of the Comp Plan. This does not hold water.

Dick Ainsworth said it did to some degree. But in and of itself it is not grounds to approve the proposal.

Ann Mary Dussault said Wally Congdon raised the issue concerning the covenants. Covenants, in her opinion, mean little or nothing because they can be amended the day after they are approved. She wondered how this issue could be resolved?

Dick Ainsworth said he wished he could resolve this. Wally Congdon had suggested a deed restriction particularly with regards to a common area. In the last subdivision they did, they added language to the covenants to the section which related to the common area that the covenants couldn't be amended. He said his attorney had recommended that they not do this. In the attorney's opinion, making anything non-amendable was not good; forever was a long time. The attorney suggested making the covenants amendable only by agreement of 100% of the lot owners and the Board of County Commissioners. He said they wouldn't have an argument with this suggestion; they want the same out of the common area as everyone else. He stated he was open to suggestions. Many of the concerns such as setbacks are noted on the plat. A statement will be placed on the plat that has to do with hillside restrictions. These statements are not amendable. Although there are exceptions, he said they have not seen where people have amended the covenants.

Ann Mary Dussault said Mr. Ainsworth's recommended language for Condition #5 regarding hillsides referred back to the covenants. If the covenants, in regards to hillside development are amended, wouldn't this lead to an amended plat?

Dick Ainsworth said it would under this scenario.

Ann Mary Dussault asked where the "50" as regard to the 50 foot setback came from?

Dick Ainsworth explained in Placid Lake this setback was used and it was also suggested by OCD for this particular subdivision. Realistically, there are only two lots, Lots 3 and 4, which could build 50 feet from the lake and not be on a hillside. All of the other lots will be substantially more than 50 feet from the lake. The hillside control served as a setback on most of the lots.

Ann Mary Dussault said in this case, the 50 feet is directly related to a non-buildable area anyway. The natural physiography prohibits building closer than 50 feet.

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Dick Ainsworth said this was true for Lots 3 and 4. But on the other lots, the building would be much further back than 50 feet. It would be more like 100 feet.

Ann Mary Dussault asked how a homeowner would get a boat up and down the hillside to the water?

Dick Ainsworth said they can't. The homeowner would have to go to the State campground in order to put their boat in or take it out. He said he couldn't imagine someone trying to put a boat in. He said in most cases, the hillsides are timbered. A person would really have to work at doing this. This would be so much harder than just going down to the campgrounds and spending $3 to get your boat in or out. It is conceivable that Lot 3 could put a boat in and out. The folks across the lake used to use this for access. However, Lot 3 is the only lot that may be able to access the water for launching their boats.

Ann Mary Dussault stated it was her fear that so much of the protective language is contained in the covenants which can be changed fairly easily. It wouldn't take very long for the folks to figure out that by merely changing the definition of hillsides, they can change what can happen on hillsides. In fact, a second structure, presently prohibited in the covenants, could be built on the hillsides. She voiced concern that trails would criss-cross this protected area and the area would cease to have any protected value. Therefore, the impact on the lake is greater. The concerns of the people truly become a legitimate issue. The Commissioners would like to make sure this scenario will not happen.

Dick Ainsworth said the developers share these concerns. He spoke about covenants and the problems with covenants; however, in the planning stages of a subdivision, everyone goes to great lengths to develop a comprehensive set of covenants in order to protect. Developments now need some other mechanism for protection.

Ann Mary Dussault asked if there was motorized access to the common area?

Dick Ainsworth said presently there is a trail that crosses Plum Creek land. It is a 4-wheel drive trail; it isn't extremely steep, but it isn't something anyone would want to take in their passenger car. He said Plum Creek's land is on both sides of Woodworth Road. He said he didn't know if this road went anywhere in particular or provided access to anyone.

Ann Mary Dussault asked why the Commissioners wouldn't want to place a conservation easement on the common area parcel? The homeowner's association could retain ownership of this parcel. The easement would ensure that the things everyone has expressed concern over, won't happen. Also, motorized access could be restricted.

Dick Ainsworth said they do not mind restricting motorized access. However, he said if there was some other way to protect the common area with the homeowners controlling it themselves, they would do it. He said rather than having some other entity control the land such as the County, the Five-Valleys Land Trust, etc., they would rather see the homeowners retain control over the common area. He said perhaps they could deed the property to the homeowner's association with restrictions placed on the deed. He said they are not reluctant to do what a conservation easement would actually accomplish. A conservation easement can be as loose or restrictive as a person wants. He said if there is some other way to get there, they would rather do it this way. He commented he had heard that they were fairly costly to put together.

Ann Mary Dussault suggested that common access and a common dock to the lake makes more sense for protection of the resources in the area. If people know this up front when they buy, they wouldn't be as reluctant to share.

Dick Ainsworth said he would be more reluctant to share docks than an access. He said they would have to be careful about where the access was placed. He said he was seriously concerned about sharing docks; this could be a real conflict. There are certainly some advantages, but the logistics may be a problem.

Ann Mary Dussault asked if Mr. Ainsworth had any indication from the State Health Department as to their view of septics on the nine lots?

Dick Ainsworth said no. They have submitted the information to the agency. He said they hired a hydrologist, Howard Newman, who did a fairly in-depth analysis. Mr. Newman indicated that the subdivision more than meets even the new non-degradation standards. He said they meet or exceed all of the criteria. The agency did asked for some information, but it was for clarification purposes.

Fern Hart referred to comments in the minutes made by Ron Ewart at the Planning Board meeting. The Seeley Lake Comp Plan designates residential development at two units per acre for lands adjacent to lakes in this area, "while preserving the fragile nature of the shoreline." She said development will have some impacts. It

will never be the same. She said she agreed with the statement made by Rich Clough of the Fish, Wildlife and Parks who said, "Our agency will be asked to provide comments that will often times conflict with the developer's intent. This does not mean that the development will not occur, but it provides that those making the decision to approve, modify or disapprove the designs, have an opportunity to consider identified concerns."

Dick Ainsworth said it always seems that no matter what a developer will bring in and no matter how appropriate, the public or agencies always want more. However, he said they started out by being conservative in their development; they are giving 80% of their ground for open space. There are some beautiful building sites on the bench above the highway. However, it did not make sense to them to develop this. He said they share the same concerns as the Commissioners and are more than happy to work with the Board to address the various concerns. He wondered what would be done between now and next Wednesday to resolve these issues and concerns?

Ann Mary Dussault said the new subdivision regulations may allow for a separate agreement between the Board of County Commissioners and the developer. Some things within covenants are of such a nature that they should be drawn out of covenants and should be subject to an agreement between the two parties. Another possibility may be looking at some items which can be labeled that couldn't be amended in the covenants without approval of the Board of County Commissioners. Some form of tiered system is needed.

Dick Ainsworth stated they were open to these ideas because they share the concerns relative to the covenants.

Fern Hart closed the hearing to public comment, but stated that the record would be open to receive written comment until noon on Tuesday, February 1st.

Ann Mary Dussault asked the County Attorney's Office to consider the request made by the B.O.S.H. folks relative to the assessment of the property.

A discussion ensued with members of the audience concerning their adjoining property and tax questions. They indicated that they have tried the tax appeal process, the State, etc., with no results.

Ann Mary Dussault said upon the residents' request, the Commissioners communicated with the State.

HEARING: CONFLICT OF INTEREST/HOME PROGRAM

Information received from Cindy Wulfekuhle, County Housing & Community Development Specialist, explained that the action requested is the Commissioner's approval of Request for Waiver or Exception from Federal and State Anti-Conflict of Interest Prohibitions on behalf of two Missoula County employees selected as participants in the Missoula City-County Affordable Homeownership Program (MCCAHP).

Per the State HOME staff and their attorney, Section 2-2-201 and 7-3-4367, MCA, prohibit any municipal or county employer from entering into a contract with their employee. The County is co-administering a first-time homebuyer program in which two County employees were selected during a random drawing for participation in the program. Assistance provided would require a contract between Missoula County and two employees, Scott Newell, Deputy Sheriff, and Phil Clark, Detention Officer.

Michael Sehestedt, Deputy County Attorney, explained this has been a duly noticed public hearing to consider whether or not the Board of County Commissioners should waive the Conflict of Interest provisions contained in State Law to allow two county employees of the Sheriff's Department to participate in the HOME Program. The situation is the individuals are employees of the Sheriff's Department. Their names were chosen in a blind drawing as participants in the HOME Program. Two potential conflict of interest statutes have to be dealt with. The first is set out in the Federal regulations and is applicable if the individual is an employee of the covered entity and exercises some level of authority or has access to confidential information involving the administration of the program. In this case, while quite clearly they are employees of Missoula County, they have no involvement and no access to inside information. Even the State has concurred that the Federal conflict of interest regulations do not reach these individuals. The second conflict of interest statute potentially applicable is the State law provisions set out at 2-2-201 of the Montana Code Annotated. This prohibits an employee from contracting with the governmental entity through which he or she is employed during their employment and for any time six months thereafter. There is a procedure for the Board of County Commissioners to waive the conflict of interest if they find it is not significant and that the individual is not directly involved in the program. He said in this case, there is an exception for competitive bidding; the blind drawing probably serves the function of insulating and making it not a conflict. The State, however, is not certain; since the State has the money, the Commissioners need to review and determine whether or not these individuals have a conflict of interest and whether or not the conflict of interest should be waived to allow them to participate in the program.

The hearing was opened to testimony, there being none, the hearing was closed to public comment.

JANUARY 26, 1994 (CONT.)

Ann Mary Dussault moved and Fern Hart seconded the motion to find that no conflict of interest exists and requested that the Montana Department of Commerce grant such waivers as may be necessary in their opinion to proceed with facilitating the individual's loans. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 3:45 p.m.

JANUARY 27, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-014

The Board of County Commissioners signed Resolution No. 94-014, a resolution authorizing and directing the County Treasurer to accept payment of the 1984, 1985, second half 1987, 1988, 1989, 1990, 1991 and 1992 taxes due, without penalty or interest, on SUID #2151064, McWhirk-Amended Blocks 17 and 18 - Tract D, Blocks 17 and 18, as notice was not given as required by law.

Closing Documents and Agreement

Chair Hart signed the Closing Documents for the Workers' Compensation Bonds, and the Board of County Commissioners signed an Agreement between Missoula County and the Montana Association of Counties Workers' Compensation Joint Powers Authority regarding the withdrawal of the County from the Workers' Compensation Program provided by the Authority effective at 12:01 a.m. MST, on January 30, 1994, as per the mutual covenants and payments referred to in the Agreement.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Craig Cott, M.D., an independent contractor, for the purpose of providing primary medical care for Partnership Health Center (PHC) in accordance with the policies established by the Partnership Health Center Governing Board, the PHC Director and the administrative, fiscal, and risk management policies of the County, as per the terms set forth, for the period commencing January 1, 1994, through June 30, 1994, for compensation at the rate of $40 per hour to a maximum of $10,560.00.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JANUARY 28, 1994

The Board of County Commissioners met in regular session in the afternoon; a quorum of the Board was present. In the forenoon, Commissioners Hart and Dussault attended the Economic Outlook Seminar sponsored by U/M's Bureau of Business and Economic Research.

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming the Office of Public Instruction as principal for warrant #13031, dated June 30, 1993, issued on the Hellgate Elementary School District #4 Claims Fund in the amount of $578.78 now unable to be found.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Carol Postorino, doing business as Compensation Adjusters, an independent contractor, for the purpose of assisting the County in complying with all of its obligations under the Workers' Compensation Act and the Occupational Disease Act of Montana, as per the items and terms set forth, for the period commencing January 30, 1994 for a period of three years, for compensation as per the schedule set forth in item #4 of the contract.

JANUARY 28, 1994 (CONT.)

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

JANUARY 31, 1994

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, Commissioner Dussault officially reappointed the members of the DUI Task Force at a meeting held at the Missoula Police Academy.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-015

The Board of County Commissioners signed Resolution No. 94-015, a resolution to adopt the Butler Creek Area Comprehensive Plan, in its final form, as an amendment to the Missoula County Comprehensive Plan, a copy of which is available in the Missoula County Rural Planning Office.

Modification of Agreement

Chair Hart signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences to modify Section III, paragraph (1), of the agreement between them concerning provision of TB services (DHES No. 340270), in order to add $4,000 to the available funding. The document was returned to the Health Department for faxing to DHES in Helena.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

Audit Exit Interview

In the afternoon, the Commissioners and several staff members met with Paul Sepp and representatives of Elmore & Associates PC for the Audit Exit Conference.

FEBRUARY 1, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #2, pay date of January 21, 1994, with a total Missoula County Payroll of $452,071.08. The Transmittal Sheet was returned to the Auditor's Office.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Erica Brown, an independent contractor, for the purpose of assisting in the development of the Partnership Health Center monthly dental screening clinics; facilitating monthly clinics; recruiting and organizing volunteer dental hygienists; attending monthly meetings; preparing an orientation manual for volunteer hygienists; and evaluating clinics, as per the terms set forth, for the period commencing January 26, 1994, through July 1, 1994, for compensation to a maximum of $1,805.00 at a rate of $19.00 per hour.

Modification of Agreement

Chair Hart signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences to modify Section III (1) of the Agreement between them concerning provision of services under the Maternal and Child Health Services Block Grant (DHES No. 340156) to add $23,867 in funds to the maximum dollars available during SFY 1994, increasing the maximum funds to $105,324.00. The Agreement was forwarded to DHES in Helena.

Agreement

Chair Hart signed an Installation and Service Agreement between Montana Security and Communications, Inc. and Missoula County Animal Control for the purpose of installing and maintaining or cause to be installed or maintained at the premises located at Animal Control Center the Central Office Notification Service Systems as specified in the Schedule of Protection, subject to the terms and conditions of the Agreement, for a total cost of $1,342.40 for an initial period of two years. The Agreement was returned to Jim Carlson at the Health Department.

FEBRUARY 2, 1994

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

Audit List

The Board of County Commissioners signed the Audit List, dated February 1, 1994, pages 2-36, with a grand total of $147,241.08. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Amendment to Special Use Permit

Chair Hart signed an Amendment to the Condon Ball Field Special Use Permit granted by the Flathead National Forest, which authorizes Missoula County to meet the insurance requirements in Section VIII, Item O, through the County's self-insurance program, thereby waiving the insurance requirement in the Permit. The Amendment was returned to John DeVore, Administrative Officer, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order by Chair Fern Hart at 1:30 p.m. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

FEBRUARY 2, 1994 (CONT.)

BID AWARD: ONE (1) 20-TON TILT-TOP TRAILER - 40,000 LB CAPACITY (ROAD DEPT.)

Fern Hart explained from information received from Horace Brown, County Surveyor, that at 10:00 a.m. on January 25, 1994, bids were opened for one 20-ton tilt-top equipment trailer, 40,000 pound capacity, with the following results:

Kois Brothers Equipment	$13,526.00
Trade-in	2,800.00
Total with Trade-In	$10,723.00
Jones Equipment, Inc.	$15,884.00
Trade-In	2,400.00
Total with Trade-In	$13,484.00

The staff recommended that the bid for one (1) 20-ton tilt-top equipment trailer, 40,000 pound capacity, be awarded to the lowest bidder meeting the minimum specification requirements, Jones Equipment, Inc., in the amount of $13,484.00 with trade-in.

The trailer bid by Kois Brothers had a 36,000 pound yield strength steel frame, while the specifications called for 80,000 pound yield strength, and no rear full width fold down approach plat. There is $15,000 budgeted in the FY'94 budget for this purchase.

Horace Brown commented that the specifications called for 80,000 pound yield strength, and rear full width fold down approach plat. Jones Equipment, Inc. fully met the bid specifications.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bid for one (1) 20-ton tilt-top equipment trailer, 40,000 pound capacity, to Jones Equipment, Inc., in the amount of $13,484.00 with trade-in, as the lowest and best bidder. The motion carried on a vote of 3-0.

BID AWARD: ONE (1) 4 X 4 UTILITY VEHICLE (WEED DEPT)

Fern Hart explained from information received from Alan Knudsen, Pest Management Specialist in the Weed Office, that $18,000 was budgeted in the Weed District budget for the purchase of a 4 x 4 sport utility vehicle. The funding for the vehicle is a reimbursement grant from the Montana Noxious Weed Trust Fund which has been approved by the Montana Department of Agriculture.

The results of the bid opening was as follows:

University Motors	$19,442.00
Karl Tyler Chevrolet	$18,992.00
Bitterroot Motors	$18,438.60
Flanagan's	$17,438.72

The staff recommended that the bid for the 4 x 4 sport utility vehicle for the Weed Office be awarded to Flanagan's, the lowest and best bidder, in the amount of $17,438.72.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bid for the purchase of a 4 x 4 sport utility vehicle, to Flanagan's, in the amount of $17,438.72, as the lowest and best bid based on the fact that the funding for the vehicle is a reimbursement grant from the Montana Noxious Weed Trust Fund which has been approved by the Montana Department of Agriculture. The motion carried on a vote of 3-0.

DECISION ON: SALMON LAKE SHORE SITES (9-LOT SUBDIVISION) PRELIMINARY PLAT

Fern Hart explained that the decision on Salmon Lake Shore Sites had been delayed from the Public Meeting on January 26, 1994. The Commissioners continued to receive public comment in the form of written comment and telephone calls until Tuesday, February 1st. The public testimony portion of the hearing is closed.

Barbara Evans said concern had been expressed about docks. She wondered what kind of docks are currently available to lessen the impact on the lake?

Dick Ainsworth, Professional Consultants, Inc., said the bulk of the docks on the lakes in the area are floating or removable docks. A floating dock can be left in the water through the winter, opposed to a piling dock. A piling dock will not last because when the ice freezes in the winter, the current takes the ice and pilings with it. If it is a floating dock, they are generally left in the water. A variety of things are used to float the docks, from styrofoam to barrels. He described a dock that had a metal frame and a wood deck that set on wheels. This type of dock was becoming more popular because it was adjustable and could be pulled out of the water and

stored on the shore during the winter. He described a third type of dock that was hinged and set on piers. In the winter, the docks are winched to a tree and lifted out of the water.

Barbara Evans asked how the docks would be placed in the water, where they would be stored and whether there would be any danger to the slope if the residents had to drag the dock up the slope?

Dick Ainsworth said he couldn't imagine anyone trying to drag a dock up a steep slope. At the bottom of the slope is a relatively level beach that varies from 15 to 25 feet in depth before the steep slope. He said anyone who didn't want to leave the dock in the water could simply pull it out and store it on the level beach area.

Barbara Evans asked what a normal sized dock would be and whether Mr. Ainsworth would be willing to place restrictions on the size or type of dock in the covenants?

Dick Ainsworth said they could probably put dock restrictions in their covenants. He referred to Missoula County's lake shore protection regulations (which were not adopted) that called for up to 800 square feet of dock per 100 feet of lake frontage. Most docks are in the 16-20 foot range. There aren't a lot of big boats on Salmon Lake. A maximum of 40 feet long and 8 feet wide would be acceptable to them. If a dock is under 8 feet wide, there is no stability. He wondered if developers could control docks? The lake belongs to the State. The covenants technically cover their ownership--no more. He said he did not have a problem putting dock restrictions in the covenants, but he didn't know how enforceable they would be.

Barbara Evans asked how the residents will get the docks into the water? She asked if it was possible to put the dock in the water at the public boat launch?

Dick Ainsworth said this is a possibility. The metal docks come in pieces and could be assembled at the shore. Most people build a dock close to where they want to put in at the lake.

Barbara Evans expressed concern about barricade fencing. She said it was her feeling that putting up barricade fences that would slow or negate the movement of animals would not be acceptable. She asked if the developers were willing to put restrictions of barricade fencing in the covenants? Split rail fences no higher than three feet could be allowed or something that would allow the animals movement under, through and over the fencing.

Dick Ainsworth said they had no problem with this.

Ann Mary Dussault referred to the lake shore protection regulations and asked if there was a section that addressed the kind of material that could be used to float a dock? There had been some concern about the use of barrels.

Dick Ainsworth said he hasn't seen a new dock made out of barrels for a long time. This used to be a problem. The barrels would rust out. A lot of docks are built with treated styrofoam; however, if the styrofoam is not treated, there can be problems. The industry also makes a molded plastic barrel that doesn't rust. They also make formed rectangular plastic designed for docks. On Placid Lake, there is a distributor for roll-in docks. He said for the last couple of years he hasn't seen any new floating docks. The roll-in docks have car-size wheels that stay in the lakes and can be rolled out in the winter. The roll-in docks can be either straight or be L-shaped. Either this type of dock or a floating dock would work on the lake front property.

He said the Health Department indicated that the documents for the subdivision had been sent to the main office in Helena and had been approved; they would probably receive an approval letter in the next two weeks.

A discussion ensued relative to the hydrology report and why Lot 5 was different than the other lots. It was concluded that because the various types of soils, Lot 5 was different from the other lots. Lot 5 is larger and the drainfield site is also further away from the lake. None of the lots exceeded the standards for nitrates.

Fern Hart asked how the wells would be constructed; do they have to be a certain distance from the septic system and from the lake?

Dick Ainsworth said the setback requirements relate more to the septic systems than to the lake. The septic system has to be a minimum of 100 feet from the lake and from any well. The well can be about anywhere. Most of the wells would probably not have a pumphouse, but would have a pitless adapter as there are restrictions on the outbuildings.

Barbara Evans expressed concern about the runoff into the lake from fertilizers.

Dick Ainsworth said most lake places don't have lawns that they fertilize. Some folks put in lawns, but they are generally not very big. In this case, the lawns would be up on the bench and would be a good distance from the

lake. If they did have fertilized lawns, the chance of this getting into the lake would be similar to the septic getting into the lake.

Barbara Evans asked if the developers would consider putting something in the covenants that would require the homeowners to check with the County Extension Agent before using fertilizers? There are fertilizers available that will not impact the lake. A listing of these products that would not impact the lake could be included in the covenants as well.

Dick Ainsworth agreed that this could be placed in the covenants.

Fern Hart explained she tallied the number of letters received by the Commissioners. The Board received six letters and eleven phone calls of protest. These will be noted in the record.

Barbara Evans asked if the developers reviewed the proposed agreement which will provide the protections this Board is concerned about relative to the lake shore property? She asked if they had any problems with the agreement?

Dick Ainsworth said he had discussed these with Colleen Dowdall. He mentioned some items that needed to be cleaned up. He said they are a partnership, not a corporation.

Fern Hart explained in the new subdivision regulations, the Commissioners have the ability to have an agreement with a development between the development and the Board of County Commissioners. The Board has tried to include some things which could not be revoked without the consent of the Board of County Commissioners. There will be ordinary covenants with the homeowners association; these can be changed. The Board wanted to secure setback requirements, etc., in an agreement so they couldn't be changed.

Dick Ainsworth said their attorney has not reviewed the language in the agreement. He said the language regarding the replacement of vegetation literally reads that when vegetation is taken out during the building process, it must be replaced. He said he knows what the intent is, but he asked that the language be cleared up.

He referred to Section 14--Hillside Construction in the agreement. For the most part, the language in the agreement was taken out of the covenants. He said when Colleen Dowdall drafted the agreement, she took out the language which allowed for trails, walkways or steps; trails and walkways has been left out. Steps or similar structures has been left in. Colleen Dowdall indicated that this was due to the Commissioners' concern about trails and walkways eroding the hillside. He said they share this concern, but were hesitant to say a person couldn't have a trail or a walkway. In some instances a trail or walkway would have less impact than a set of steps. He said visually, a trail would impact the hillside less. If the trail or walkway was done with a machine, it would have a visual impact, but this will not be allowed. In many cases, a trail is already there without erosion. Stairs would definitely impact the area greater than a trail would. People may want a handrail to go with it. He said he could envision one working better than the other depending upon the situation. He said they were a little hesitant to take out the trails and walkways.

Fern Hart referred to Section 2 on page 1 which stated, "in this regard the common area shall remain undeveloped and shall have no roads, structures or facilities thereon, but shall be maintained in its original state with such husbandry exercised by the developer as it shall be deemed appropriate." She asked whether they wanted the developer or homeowner to exercise this "husbandry"?

Dick Ainsworth said it should probably be the homeowner's association. The developer should be taken out and the landowner left in. As long as the developer still owns lots, they could have some say, but when they've sold all the lots, then they would no longer have any say.

A discussion followed relative to Section 2 which referred to garages or other buildings that are reasonably pertinent to the residential dwelling, and are permitted. It was concluded that other buildings pertinent to the residential dwelling would be woodsheds, an outhouse, etc.

Dick Ainsworth said he wouldn't expect to see either a woodshed or an outhouse on the properties. He said other than the comments made, they agreed with the intent of the agreement. Basically, this agreement was taken from their covenants and is what they wanted to see all along. This agreement ensures the property will stay the way it should.

Barbara Evans asked about jet skis. The Commissioners don't have the authority to restrict jet skis since the County does not own the lake. She wondered if the developers would be willing to restrict the use of jet skis in the covenants?

Dick Ainsworth said they hate the things, but don't have the authority to do anything about them. If the covenants restricted the use of jet skis, how enforceable would it be?

Michael Sehestedt, Deputy County Attorney, said all that could be done in the covenants would be to prohibit people from harboring jet skis on the premises. The use of jet skis on the lake is beyond the reach of the covenants. The homeowners that don't bring the jet skis to shore couldn't be controlled because it is on State property and beyond the reach of the covenants. He said he didn't think this would be particularly enforceable. The covenants could control only the land ownership and could merely attempt to prohibit the harboring of jet skis on the lots.

Barbara Evans said she wanted to find some way of accomplishing this because of the loons on the lake.

Michael Sehestedt said the problem is the restrictions can't be enforced on the public boat launch immediately adjacent to the property. The ability to enforce the restriction effectively would be extremely limited. He said a better approach may be to make a joint property owner/County government request to the State that they impose some watercraft restrictions for size, speed, noise, etc., or whatever is appropriate, on the lake.

Dick Ainsworth said they would love to see them outlawed on the lakes in the area. Most of the jet skis on Salmon Lake come from the campground.

Barbara Evans asked if there was anything that would keep the developers from placing restrictions in the covenants? People would agree to the covenants when they buy the property.

Michael Sehestedt said this is only effective if the residents bring the jet skis ashore.

Barbara Evans said given the situation with the loons, she wanted to support a petition to the State to restrict the use of jet skis on Salmon Lake.

Michael Sehestedt said if the County obtains some comprehensive authority over lake shore protection as well as additional authority to regulate traffic on the waterways and lakes of Missoula County, the concern for the loons could be more effectively addressed. This is but one development--there are a number of other cabins on the lake. If the use of jet skis is a problem for wildlife and for the peaceable enjoyment of property generally, then it would be best to attack it from a regulatory basis.

Ron Ewart suggested that education of the residents is the best way to preserve the lake and the land. He suggested that this be addressed in the lot owner's manual. Language could be included in the covenants to address the negative effects of utilizing jet skis.

Dick Ainsworth said they would be happy to include this. While it doesn't have a lot of force, it is educational for the residents.

Ann Mary Dussault asked if this subdivision was approved at today's meeting, and the substance of the agreement between the Board of County Commissioners and the development is agreed to, how would the problem be resolved if the developer wanted to reconsider after consulting with their attorneys?

Colleen Dowdall said much of the language in the agreement was taken from the covenants. The issue is whether the Commissioners want the County to enforce this part of the covenants. The next issue is that some of the covenants have been changed. If the substance of the document is agreed upon, then the subdivision could be approved contingent upon the approval of the agreement. Other issues not addressed in the agreement are how many docks and access to the lake.

Ann Mary Dussault said there are no substantive changes in agreement from the covenants.

Dick Ainsworth agreed with this statement.

Ron Ewart commented that Condition #7 of the staff's report stated that the covenants shall be approved by OCD and Rural Planning. He said approval of the covenants is one condition.

Ann Mary Dussault said she was talking about substantive conditions under which this subdivision might be approved. She said she didn't want the public to think that these were the conditions and then three years down the road, substantive changes were made between the developer and the Commissioners. She said this is the first agreement of its kind; she wanted it to be clear what the process was going to be. The agreement is significantly different than homeowner covenants.

Dick Ainsworth said as the document stands, he didn't have any problems. The changes were a matter of cleaning up the language. He agreed with the intent of the agreement, including the additions such as fencing, docks, fertilizer, etc.

Ann Mary Dussault said the Commissioners must state intent by motion. This will be reduced to language. She referred to Section 13 concerning wood burning devices. She said it had been discussed amending the

section to state that any solid fuel burning devices would meet the requirements of the City-County Health Department. These requirements significantly limit what can be put in. Fire places can be installed, but they must be gas burning; wood stoves can be put in, but they must meet stringent standards.

Dick Ainsworth said if the development was in the Missoula Valley airshed he would agree, but this development is not in the Missoula Valley. He said they did not want to see this requirement in the agreement.

Fern Hart asked about the procedure the Commissioners should use. Would a motion be made to accept or deny this change.

Michael Sehestedt said procedurally, this was correct. A main motion could be made to approve the subdivision. Subsequent motions to amend the agreements could be made and voted upon separately.

Fern Hart asked for a motion. She asked Colleen Dowdall to briefly review the amendments to the agreement.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the preliminary plat of Salmon Lake Shore Sites subject to the conditions contained in the staff report and based on the findings of fact and subject to the agreement entered into between the Board of County Commissioners and the developers.

Colleen Dowdall explained that the first section had a general purpose of trying to keep the subdivision a nice and attractive development that does not impair environmental or ecological attractiveness of the property and preserves aesthetic values.

The second section addressed the common area which would never be developed. The County would be in a position to enforce this.

Barbara Evans commented that there should be an amendment to Section 2 where developer would be deleted and homeowner would be inserted, "...husbandry exercised by the **homeowner's association** as it shall deem appropriate."

Colleen Dowdall referred to the second Section 2 which required the property be used for residential purposes only which included one single family dwelling, one three-car garage, that the property cannot be used for any commercial or business purpose, and that the property cannot be owned by a corporation or association of any nature or description. The residence can be used by no more than one family or be used as a time share unit.

Ann Mary Dussault moved and Fern Hart seconded the motion to amend Section 2, line 3, by deleting, "or other buildings that are reasonably appurtenant to the residential dwelling." The language shall read, "**garages are permitted, but shall not be constructed or equipped with any type of permanent living or sleeping quarters.**" The motion carried on vote of 3-0.

Colleen Dowdall said this section shall be renumbered to be Section 3.

She said Section 4 - Vegetation, required if there was any construction that disturbs or injures existing vegetation, the vegetation shall be restored or replaced with native vegetation. Pest and weed management on the property should be done through natural means. Pesticides, herbicides and insecticides shall be used only with prior approval and recommendation of the Missoula County Extension Service. Also, each lot owner shall be responsible for controlling the weeds.

Barbara Evans moved and Ann Mary Dussault seconded the motion to amend Section 4 to read, "...**fertilizers**, pesticides, herbicides, and insecticides shall be used only with prior approval and recommendation of the Missoula County Extension Service." The motion carried on a vote of 3-0.

Colleen Dowdall said the second Section 4 allowed satellite dishes, but required they be of a non-reflective nature, that only natural colors be used, and that white dishes not be allowed.

Barbara Evans expressed concern that a silver unpainted dish could be used.

Colleen Dowdall said the reflective type could not be used.

Dick Ainsworth said non-reflective and natural colors is clear.

Colleen Dowdall referred to Section 5 which prohibited dividing the tracts except for the purpose of making an adjoining tract bigger. Section 6 provided for setbacks. A 50 foot setback was provided from the residence to the high water line and a 30 foot side yard setback. All other buildings must be 75 feet from the high water line. Satellite dishes must also be 75 feet from the high water line. This provision was changed because a neighbor could waive a 30 foot side yard setback. A provision was added that if this did happen, it must be in writing and filed in the Clerk and Recorder's Office.

FEBRUARY 2, 1994 (CONT.)

Ann Mary Dussault moved and Barbara Evans seconded the motion to amend Section 6 to strike "all other buildings" and insert "**garage**". In Section 6, this amendment shall apply to all references to "all other buildings", which appears two times. The motion carried on a vote of 3-0.

Colleen Dowdall referred to Section 8 which expanded the provision for the storage of garbage and rubbish. It was expanded by detailing the kinds of containers garbage should be stored in and that it should be stored indoors at all times. This is for the purposes of protecting the wildlife.

She referred to Section 9 which required individual sewer and water systems be approved by the Health Department and the Montana Department of Health and Environmental Sciences. It would give the County the ability to enforce any violation such as polluting the lake or any other spring or source of water on the property. It required that the owners be responsible for inspection and maintenance of their sewage system.

Section 10 dealt with the vegetation. It prohibited the cutting of trees or vegetation within 50 feet of the lake unless necessary for the construction of a walkway or stairway to the lake. It also required that the beach and shoreline be kept attractive and that no structures be built there except for a boat dock. A provision was added that prohibited barb wire fencing on the property.

Barbara Evans moved and Ann Mary Dussault seconded the motion to amend Section 10 to prohibit barb wire fencing and privacy fencing. Split rail fencing shall be no higher than 3 feet and shall not inhibit the movement of the animals in the area. The motion carried on a vote of 3-0.

Ann Mary Dussault said this language would exclude all fencing with the exception of split rail fencing no higher than 3 feet.

Colleen Dowdall referred to Section 11 which dealt with wildlife and required that perching and nesting sites be protected on the property. A provision was added that apiaries be prohibited. Also prohibited were permanent barbecue pits and required that barbecue grills be cleaned regularly and stored indoors.

Section 12 restricted the number of household pets to two cats and two dogs, and prohibited all other animals or fowl, domestic or wild. A provision was added that required cats to wear bells to warn birds and that pet food be stored indoors.

Barbara Evans requested that cats be required to wear more than one bell; cats can walk without making a sound with only one bell.

Barbara Evans moved and Ann Mary Dussault seconded the motion to amend Section 12 to require cats to wear more than one bell. The motion carried on a vote of 3-0.

A discussion ensued relative to Section 12 which required that household animals shall not be permitted to become a nuisance or annoyance in any manner. It was concluded that the Commissioners agree to enforce the contents of the agreement. Therefore, there is a point at which the County could become trapped; the Board did not want to enforce animal control. However, this will be included in the covenants.

Ann Mary Dussault moved and Barbara Evans seconded the motion to amend Section 12 to delete, "Such household animals shall not be permitted to become a nuisance or annoyance in any manner." The motion carried on a vote of 3-0.

Colleen Dowdall referred to Section 13 - fire regulations, which required homes to be equipped with chimney spark arresters that meet Montana fire specifications.

Ann Mary Dussault asked what wood burning fireplace or stove could be located outdoors?

Dick Ainsworth said these have been prohibited; there couldn't be wood burning devices outdoors.

Ann Mary Dussault moved and Barbara Evans seconded the motion to amend Section 13 as follows:

> All solid fuel burning devices shall be equipped with chimney spark arresters that meet Montana Fire specifications and meet the requirements of the Missoula City-County Air Pollution Control Program.

The motion carried on a vote of 2-1 with Barbara Evans voting against the motion.

Barbara Evans said she had mixed emotions about doing this because the development is not in air containment area. At the same time, gas fireplaces are very efficient and aesthetic. She said she hated to impose something on an area where the Commissioners have not done this before.

Ann Mary Dussault commented that the Commissioners have done this in other subdivisions which were outside the Air Stagnation Zone. This is not an uncommon criteria. She said she looked at the revised Seeley Lake Comp Plan which clearly identified the problem of air quality. This requirement seems to be a reasonable response to this problem.

Barbara Evans asked if the Health Board intended to either extend the Air Stagnation Zone or create a new one for Seeley Lake?

Ann Mary Dussault said the Missoula Air Quality District was created by petition of the residents. At this time, there is no intent to move into other area unless petitioned by the residents. She said these regulations allow for the installation of fireplaces, however, they must be gas. Other wood burning devices are allowed, but have to meet emission standards such as catalytic devices and pellet stoves.

Barbara Evans asked if the regulations allowed for fireplaces with fireplace inserts that meet the qualifications?

Ann Mary Dussault said for all practical purposes, a resident would do a fireplace with a gas insert. Theoretically, a fireplace with an insert could be installed.

Colleen Dowdall referred to Section 14 which dealt with hillside construction. The amended language is as follows: "Hillsides, as used in these covenants, are defined as all lands having a slope with a natural gradient of 25% or more. No buildings or pathways of any kind shall be constructed on a hillside but overhanging decks on the residential dwelling can be supported on a hillside on supports which require a minimum of excavation. Steps or other similar structures are permitted on a hillside for foot traffic to the lake shore. The main residential dwelling shall be constructed on slopes of less than 25% and all other buildings shall be on slopes of 15% or less." The covenants had a different definition of the 25% slope.

Dick Ainsworth said the language relative to the percentages came out of the subdivision regulations. Any development on a slope of 25% or greater should be engineered. He spoke about a problem with the language relative to slope. The overall slope may be 10%, but dips to 30%, then back to 10%. He suggested that the language be worded to reflect these small changes in slope by stating, "with a minimum elevation differential of 15 feet." The regulations didn't address every little drop in slope, but looked for an overall slope difference. The lots have subtle slope changes. However, in the middle of the lots, there may be a little dip or rise that exceeds 25%. If the differential of 15 feet is taken out, technically, if there is a small rise over 25% slope, it cannot be built upon. This could eliminate some building sites. The language for 15 feet came out of the hillside development guidelines from the City's pilot study on the south side of Missoula. Originally, the regulations had been developed for the Rattlesnake, but were never adopted by the City.

Colleen Dowdall said the subdivision regulations describe steep slopes as 25% +. If it was less than 25%, then it isn't a steep slope. If it was 25% or greater, it is a steep slope.

Dick Ainsworth said if the 15 foot differential is not included, then technically, some of these areas that dip or rise are technically a hillside when it really isn't.

Barbara Evans referred to the section concerning trails and walkways. She suggested language as follows: "steps, trails and walkways or other similar structures are permitted on a hillside for foot traffic to the lake shore."

Ann Mary Dussault referred back to the 15 foot differential.

Colleen Dowdall said she took the 15 feet out because is was no longer in the County subdivision regulations. She said it is more of a planning issue than a legal issue. It doesn't pose a legal problem to put the 15 feet back in if it makes sense to the Commissioners.

Dick Ainsworth said they think the language is important to their development. This will eliminate a potential problem.

Ann Mary Dussault said it was her original concern that hillsides had been defined in the covenants. The covenants can be amended by the homeowner's association.

Dick Ainsworth said the items included in the agreement are included in the covenants as well. He requested that the 15 foot differential be included in the agreement.

Ann Mary Dussault asked if Colleen Dowdall or Ron Ewart had objections to the 15 foot differential?

Ron Ewart and Colleen Dowdall both said no.

Ann Mary Dussault moved and Barbara Evans seconded the motion to replace the language relative to 15 feet in Section 15 which had been deleted. The motion carried on a vote of 3-0.

Barbara Evans moved to amend the previous motion to include steps, trails, and walkways or other similar structures that would be permitted on a hillside for foot traffic to the lake shore, whichever causes the least impact to the hillside. The motion died for lack of a second.

Ann Mary Dussault said the impact on the lake is the heart of the issue. She said it was her concern that trails on the hillside, which have been defined as a slope of 25% or more, will cause the greatest impact on the lake such as erosion. There are areas going to the lake which aren't that steep.

Dick Ainsworth said access to lake is easier in some instances than others. If trails are done right, they would have less impact on the hillside as well as less visual impact, than a set of steps would have.

Fern Hart expressed concern over the nine trails and nine sets of steps to the lake.

Dick Ainsworth said nine trails and nine docks sounds like a lot, but the subdivision has a half mile of lake frontage. The average lot frontage is almost 300 feet. Many of the lots on Seeley Lake average 50 feet of lake frontage. Nine docks and accesses on a half mile of lake front is not unreasonable. From the highway, no one is going to be able to see all the docks at once. This is not a dense subdivision.

Ann Mary Dussault expressed concern that she didn't know how to resolve this issue. She stated she was not concerned about how a subdivision looks from the water. However, she is concerned about the overall and cumulative impacts on the lake as well as the area most sensitive between the lake and the steepest part of the land.

Dick Ainsworth said there is a bench which slopes steeply from the lake.

Ann Mary Dussault said they must figure out what is going to cause the least amount of impact on the hillside between the lake and the bench. The possibility for construction of structures on the hillside has been eliminated. The question remains, how will a minimum of nine families get to the lake? Obviously, the least amount of use will protect the hillside the most. She wondered what the best compromise was between no access and nine accesses? Can the access be controlled by the use of steps? Steps control, most of the time, where folks will access the lake.

Dick Ainsworth said anyone who would have either steps or a trail would have one route that would be the easiest to use most of the time. The hillside is fairly steep; the residents will follow the path of least resistance. This is something that is subject to review by the architectural control committee. They would like to have more input where and how the homes are built on the lots as well as the question of access. In some instances, trails may work better than steps. It is difficult to say how a person would get down to the lake. This is subject to review by the architectural control committee. They don't want the residents to carve up the hillside either. He said they are concerned with limiting accesses because of the size and the width of the lots. Someone will have to walk several hundred feet to access a common dock or their own dock. The lots are so large, the residents would have to cover a lot of territory to share an access. He said they tried to include language to protect the hillside by keeping excavation to a minimum.

Barbara Evans said the Forest Service has developed trail standards.

Ann Mary Dussault said stairs have as much or more of a potential of impacting the hillside than a single walkway.

Dick Ainsworth said the Commissioners might want to consider a combination of stairs and trails depending upon the area. There is vegetation on the steep slope, but it is not heavily timbered. The slope has brush and grass and appears to be pretty stable.

Colleen Dowdall said the way the agreement is written, steps must be built upon the hillsides or slope in excess of 25% grade. A combination of trails and steps could be used if the agreement remains as written.

Dick Ainsworth said the problem with this is virtually all the land between the bench and the lake is hillside. He said this would mean only steps would be allowable. There are circumstances where a trail may be more suitable.

Fern Hart said the developers feel they would lose the value of the lots if the Commissioners reduced the number of docks and trails.

Dick Ainsworth agreed with this statement. He said this is why people buy a place on the lake. They want an easy access and their own dock on the lake. If the access to the lake is very difficult, people won't buy the lots.

There may be people who would do this, but most people won't. Putting these restrictions on the lots would definitely hurt the value of the property.

Ann Mary Dussault asked how the developer would feel if there was approval for nine lots, but five docks? The determination of which lots would share docks would be left up to the developer. The developer would be responsible for finding where the accesses would make the most sense in terms of the least amount of disturbance to the hillside. From the beginning, the lot owner would know what they are buying.

Dick Ainsworth said it makes more sense that the developer would determine where the accesses would be located rather than the Commissioners. However, the problem remains getting someone to buy a lot with a shared access. He didn't know what sort of problems he would run into trying to market a piece of property on a lake with a shared access. He didn't know what this would do to the salability of the lots. As the number of docks are reduced, the size must be increased. He said based on the size of the property and the amount of lake frontage, trying to limit the number of accesses and docks is unreasonable.

Ann Mary Dussault said the best marketing tool is green--an environmentally sensitive product. People are buying this type of product. This may increase the value of the property because there is one more feature to the property. Everything has been done to limit the impact on the environment.

Dick Ainsworth agreed with this, in fact this is the reason they have proposed the development the way they have. But the access to the lake is why a person would buy on Salmon Lake. The lake is what interests them about this property. If this is limited, it will offset all the pluses of "green" and good development and protection.

Fern Hart said anything that is done on this lake will degrade it. If the Commissioners allow a quality development, the Board ought to look toward mitigation. The access to the lake and the docks is the key to this. The traffic issue has been mitigated by limiting the accesses. A sticking point for her has been the docks, the trails and stairs. The critical issue is to keep the lake as whole as possible.

Barbara Evans stated she did not second the motion because she preferred to have a different Section 15 that would limit the size of the docks, while still allowing for nine docks. She said people have made it very clear this is the last undeveloped section on the lake. Everyone already on the lake has theirs so they don't want anyone else to disturb their view. She said this reasoning offends her. She said the developers have taken a very large piece of land and have done some very responsible things to protect it. She said the shoreline will be safeguarded by limiting the dock size to 8x40 and requiring the docks to be pulled out of the water in the winter. She preferred to leave the architectural committee to find the best way to get down to lake whether it is steps, walkways, or a combination thereof. She said each residence would have a dock limited in size.

A discussion ensued relative the ownership of land by Plum Creek on Salmon Lake. It was concluded that Plum Creek owned a piece of property to the south of the proposed subdivision, property across the lake on the mountain, some property in the swampy part of the lake, as well as about 500 feet of lake front in the floodplain located south of Legendary Lodge and north of the old Campfire Girls Camp. Plum Creek owns no developable land on Salmon Lake. The Forest Service owns the other side of the lake, with the exception of the various cabins, and Legendary Lodge.

Ann Mary Dussault moved and Fern Hart seconded the motion to add a new Section 15 which requires that the number of accesses to the lake and docks be limited to a total of five. The developer shall determine where the joint accesses shall be located and the nature of the joint accesses, be they walkway, trail or stairs. The motion carried on a vote of 2-1 with Barbara Evans voting against the motion.

Colleen Dowdall said the rest of the paragraph on hillsides talked about excavation, grading, and protective measures required to ensure that no materials falls or rolls into the lake. The section will need a little more editorial work which discussed replacing vegetation if areas are disturbed by construction of buildings.

Barbara Evans asked Dick Ainsworth to put information in the homeowner's manual why the jet skis are harmful to the loons.

Colleen Dowdall said paragraph 15, the enforcement provision, included the developer as being allowed to enforce this agreement. It allows for conjunctive relief or relief for damages for violation of the agreement.

Fern Hart said the enforcement clause allows for the agreement to be enforced by the Board of County Commissioners, the developers and other land owners within the subdivision.

Barbara Evans agreed that developer could be taken out of the enforcement clause because as long as they are landowners, they are still in.

Colleen Dowdall agreed that this was appropriate and would be corrected.

She explained that attorney's fees are allowed for in paragraph 16. In paragraph 17, the agreement may only be modified with the consent of the Missoula County Commissioners.

Ann Mary Dussault acknowledged the fact that the determination relative to the access and docks displeased the developers. However, she said she would like to set a maximum number of square footage for the docks rather than their design. A 40' x 10' dock is 400 square feet in size. This is larger than the Commissioners would have approved if the there had been single docks.

Dick Ainsworth said their family dock is a "T" dock, eight feet in width by 24 feet in length with a 20 foot long "T". This 300 square foot dock is for one family. He said they had not thought about how large a multiple family dock should be. He said the shared docks and accesses really bothered him and he didn't know if it would even work.

A discussion ensued relative to the dock size. It was concluded that the square footage could be increased. The Commissioners wanted to dictate square footage, not design.

Ann Mary Dussault moved and Fern Hart seconded the motion that the size of each dock shall not exceed 500 square feet. The motion carried on a vote of 2-1 with Barbara Evans voting against the motion.

Ann Mary Dussault directed the agencies reviewing the covenants to ensure that the covenants are consistent with the provisions set forth in the agreement.

Dick Ainsworth referred to Condition #2 which required the developers to petition for annexation to the rural fire district. They have petitioned to be annexed. He requested that this condition be deleted. If the condition has been met, there is no reason not to delete it. He requested that Condition #5 relative to the slopes in excess of 25%, be reworded to use the suggested hillside language in order to be compatible with the covenants.

Ann Mary Dussault moved and Barbara Evans seconded the motion to delete Condition #2 in the staff report. The motion carried on a vote of 3-0.

Ann Mary Dussault referred to Condition #5 and asked if the covenants and the agreement have anything to do with the roads?

Colleen Dowdall said it didn't address roads and didn't require it be on the face of the plat.

Dick Ainsworth said they didn't have a problem putting it on the face of the plat, but the language should be similar or identical to the language in the covenants which addresses hillsides. It says a road cannot be built on a hillside.

Colleen Dowdall said the covenants say no buildings or pathways.

Ann Mary Dussault said the point is, covenants don't cut it.

Dick Ainsworth said the condition required that a statement be placed on the face of the plat that stated no buildings or roadways shall be built on slopes in excess of 25%. He said they didn't have a problem putting this on the face of the plat, but it should be consistent with the covenants.

Colleen Dowdall said Dick Ainsworth suggested that the statement on the plat match what is going to be in the agreement.

Ann Mary Dussault moved and Barbara Evans seconded the motion to amend Condition #5 to read: "A statement prohibiting construction of roads or structures on any slope described as prohibited in the Agreement between the Board of County Commissioners and the developers and shall be so stated on the face of the plat." The motion carried on a vote of 3-0.

The main motion to approve the preliminary plat of Salmon Lake Shore Sites was passed subject to the conditions of approval as amended and the Agreement as follows on a vote of 3-0:

1. The three access points on to State Highway 83 shall be approved by the Montana Department of Transportation prior to any construction.

2. The Property-owner's Association Articles of Incorporation, Bylaws, Covenants and Restrictions shall be filed with the Secretary of State. They shall bear the certification of the attorney who prepared them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict.

3. The existing highway right-of-way easement shall be labeled "Public Utility Easement".

4. A statement prohibiting construction of roads or structures on any slope described as prohibited in the Agreement between the Board of County Commissioners and the developers and shall be so stated on the face of the plat.

5. The private road plans for emergency vehicle turnarounds shall be approved by the Seeley Lake Rural Fire District.

6. The covenants shall be approved by the Office of Community Development and Rural Planning Office to address building setbacks, and protection of the common area and wildlife resources.

7. The access drives shall be paved a minimum of 20 feet back from the roadway. The unpaved portion of the driveway shall consist of a gravel surface which is well drained.

AGREEMENT

This AGREEMENT is entered into this _____ day of _____, 1994 between Missoula County Board of County Commissioners, hereinafter referred to as "the County" and the Placid Lake Properties, hereinafter referred to as "the Developer."

Section 1. Purpose. The purpose of the covenants, restrictions, conditions and reservations in this AGREEMENT generally are intended to insure the use of the property for attractive recreational or residential purposes only; to insure health and happiness; to prevent unnecessary impairment of the environmental or ecological attractiveness of the property; to maintain the tone of the area in its native form and preserve its natural beauty as far as possible and thereby to secure to each lot owner the full benefit and enjoyment of his property with no greater restriction upon the free and undisturbed use of the same than is necessary to insure the same advantage to the other lot owners. Further, these covenants are intended to preserve the environmental, ecological and aesthetic style and values of the property and the visual environment, so far as may be consistent with its use for recreational residential purposes as herein contemplated, and to create a model recreational residential subdivision which preserves to the greatest extent possible the natural beauty of the area. These restrictions and covenants should be interpreted to accomplish these purposes.

Section 2. The Common Area. The Developer and it's successors shall take such steps and actions as it shall deem appropriate to protect the common areas from environmental degradation and to preserve its natural vegetation and characteristics. In this regard the common areas shall remain undeveloped and shall have no roads, structures or facilities thereon, but shall be maintained in its original state with such husbandry exercised by the Landowner as it shall deem appropriate. This will not, however, preclude the use of designated areas within the common area for utilities, both above and underground and sewage treatment facilities for the benefit of lots within the subdivision only.

Section 2. Residential Purposes Only. The property shall be used for recreational residential purposes only. Only one (1) single family dwelling shall be allowed on each lot. Garages are permitted, but shall not be constructed or equipped with any type of permanent living or sleeping quarters. Garage size shall be limited in size so as to contain a maximum of 3 vehicles. There shall be no use of the property or any building constructed thereon for commercial or business use of any kind. To this end no lot shall be owned by any corporation or association of any nature or description or by any individuals for use of any corporation or association or for any other use as a residence for more than one family, except for ownership by the Developer or the Home Owner's Association of common area. No lot nor any improvement upon a lot shall be leased or sold as a time share unit. This provision shall not prohibit a lending institution from acquiring title to a lot by foreclosure but shall control and prohibit use of said lot by a foreclosing lending institution thereafter.

Section 4. Vegetation. In the event that construction within a lot shall disturb or injure existing vegetation, the owner of said lot shall restore or replace said disturbed or injured vegetation with vegetation consistent and compatible with native plant vegetation on the property.

All landscaping and plantings on the property shall be conducted utilizing native plant species and native plants. Fruit trees are not allowed. Pest and weed management on the property shall be performed where possible through natural means, and fertilizer, pesticides, herbicides and insecticides shall be used only with the prior approval and recommendation of the Missoula County Extension Service. Each lot owner shall be responsible for control of noxious weeds on their particular property.

Section 5. Satellite Television Dishes. Satellite television antennas (dishes) are allowed on individual lots providing they are non-reflective and of natural colors which blend with the back-ground landscape. White colored dishes will not be allowed.

Section 6. Dividing of Individual Tracts. No individual lots shall be further subdivided or made smaller in its dimensions than the size of the lot as platted by the Declarant. The purpose of this restriction is to prevent any owner from further subdividing any lot in order to construct additional residences upon said lot. However, this restriction does not prevent the owners of two or more lots which are separated by an intervening lot from dividing that intervening lot in any manner which they desire for the purpose of protecting their respective privacy, so long as the total number of lots on the property does not increase as a result of said division. Once such intervening lot is divided, then the respective parcel shall merge with and become a part of the lot on each side thereof and the new and enlarged lots may not later be subdivided or reduced in size.

Section 7. Setbacks. No building or structure of any kind, including TV dishes, shall be erected or located upon any lot closer than the setback distances shown in the table below.

	Minimum Setback Distance (Feet)	
Structure	High Water Line	Side Property Line
Residence	50	30
Garage	75	30*
TV Dishes	75	30*

FEBRUARY 2, 1994 (CONT.)

*Individual owners of adjoining lots may waive or vary this restriction at their discretion for all garages, but in no case shall the setback be reduced to less than 10 feet or for the principal residence. The variance shall be in writing and filed with the Missoula County Clerk and Recorder.

The minimum setback from the highway easement line shall be 30 feet for all buildings and structures for Lots 1 through 7 inclusive and 10 feet for Lots 8 and 9.

All decks, porches, or other similar building extensions, are considered part of the structure and will be included in the above minimum setbacks.

Section 8. Garbage and Rubbish Storage. No lot shall be used or maintained as a dumping ground for garbage or rubbish nor shall any rubbish, trash or other waste be allowed to accumulate, except in sanitary containers which shall be emptied and removed from he premises on at least a weekly basis. All garbage shall be stored in containers of metal, plastic or other suitable material which has sufficiently tight fitting covers to prevent the escape of noxious odors and to prevent entrance or destruction by wild animals. All garbage and rubbish shall be stored indoors and kept in a clean, orderly condition.

Section 9. Individual Sewage and Water Systems. No permanent individual sewage disposal system or water system will be permitted on any lot unless such system is located, constructed and equipped in accordance with the requirements of the Missoula County Health Department and the Montana Department of Health and Environmental Sciences. In no event shall any system, whether temporary or permanent, be located, constructed or equipped in such a manner as to pollute the water of Salmon Lake or any stream, spring or other source of water. Owners are responsible for inspection and maintenance of the sewage systems to insure proper operation.

Section 10. Preserve Natural Beauty. Consistent with the reasonable use of the real property and the individual lots for summer homes or residences, the Declarant and individual tract owners shall attempt to preserve the natural beauty of Salmon Lake and its surroundings. To this end a lot shall not be denuded of trees and other vegetation and a reasonable number or quantity of trees and vegetation shall be left on each tract to screen the buildings and to preserve the natural setting of the area. No trees will be cut or vegetation removed within the 50 foot set back from the lake unless absolutely necessary for the construction of a pedestrian access walkway or stairway to the lake. The beaches and shore line shall be kept generally attractive and no structures shall be constructed thereon except for a boat dock. No barbed wire fencing or privacy fencing shall be allowed in the subdivision. Any fencing allowed in the subdivision shall be split rail.

Section 11. Wildlife. Potential perch/nesting trees, such as large ponderosa pine, larch and cottonwood, for bald eagles, osprey and other raptures should be preserved and protected to the maximum extent possible. Such trees shall not be removed or destroyed unless they are a hazard to the lot residents or the improvements thereon. Apiaries are prohibited.

Permanent barbecue pits are prohibited. Barbecue grills shall be cleaned regularly and shall be stored indoors.

Section 12. Animals and Pets. No animals or fowl, domestic or wild, except for household pets, limited to 2 cats and 2 dogs shall will be kept on any lot, and in no event may any animals or fowl be raised, bred or maintained for any commercial purpose. Cats shall wear collars which with 2 bells to warn birds. The natural existence and habits of wild animals and birds are recognized, and such animals and birds shall not be hunted, molested or otherwise harmed or harassed in any way. Pet food shall not be allowed outside and shall be stored inside.

Section 13. Fire Regulations. All wood burning fireplaces and stoves, shall meet the requirements of the Missoula City/County Air Pollution Regulation with regard to solid burning devices.

Section 14. Hillside Construction. Hillsides, as used in these covenants, are defined as all lands having a slope with a natural gradient of 25% with a natural gradient differential of 15 feet. No buildings or pathways of any kind shall be constructed on a hillside but overhanging decks on the residential dwelling can be supported on a hillside on supports which require a minimum of excavation. Steps or other similar structures are permitted on a hillside for foot traffic to the lake shore but must comply with the trail standards attached hereto. The main residential dwelling shall be constructed on slopes of less than 25% and all other buildings shall be on slopes of less than 15%. All construction shall comply with the following guidelines:

a. All excavation will be kept to a minimum and no excavated material of any kind will be deposited into or allowed to migrate into Salmon Lake. Protective measures will be required to insure that none of the excavated material is allowed to fall or roll into the lake. It will be the Owners responsibility to insure that all contractors or others employed to do any excavation or construction adhere to these requirements.

b. The grading and excavation will not result in noticeable landform alteration, soil erosion, silting of land below or permanent scarring of the hillside. All buildings and other improvements shall be located and designed to conform to existing natural contours, topography and vegetation as much as possible.

c. All areas disturbed by construction of buildings, driveways, utilities or any other improvements shall be planted with native and self-sufficient vegetation after construction is complete.

Section 15. Docks. All docks built on the adjoining parcels shall meet the requirements of the dock regulations attached hereto.

Section 16. Enforcement. The terms of this Agreement are enforceable by the Missoula County Commissioners and any other landowners within the Salmon Lake Shore Sites subdivision. Any party seeking to enforce its terms may seek injunctive relief or may seek damages, if appropriate.

Section 17. Attorney's Fees. In the event legal action is taken to enforce this agreement, the prevailing party is entitled to attorney's fees.

Section 18. Modification. This Agreement shall be recorded with the plat for Salmon Lake Shore Sites subdivision and shall act as a lien upon the land which comprises the lots and common area of the subdivision. It's terms shall not be modified without the consent of the Missoula County Commissioners.

The motion carried on a vote of 3-0.

FEBRUARY 2, 1994 (CONT.)

Barbara Evans moved and Ann Mary Dussault seconded the motion to grant the request for a variance to Article 3-2 (6) which requires private roads have a 24-foot paved road within a 60-foot easement. The motion carried on a vote of 3-0.

CONSIDERATION OF: FALCON ACRES (SUMMARY PLAT) CONTINUED FROM JAN. 26TH

Ron Ewart, Planner at the Office of Community Development, explained that Falcon Acres is a proposed 2-lot division of an existing 4.74-acre parcel that was created by Certificate of Survey #1860. The subdivision is located in the Meadows of Baron O'Keefe area, fronting a gravel road to be named Running Deer Lane, off Indreland Road and Highway 93 about three miles north of the Wye in Section 10, Township 14 North, Range 20 West. The property is situated on a bench area. The project proposes to utilize individual on-site sewer and water systems.

This area is unzoned, and the Missoula County Comprehensive Plan designates it as "Open and Resource Land", where residential development of no more than one unit per forty acres would be in keeping with the intent of the classification. Over the years this area has been divided through C.O.S. activity, which has resulted in the creation of several tracts of residential properties approximately five acres in size or greater.

He said Doris Fischer, Comprehensive Planner with OCD, offered the following comments in regard to this proposal:

> "I see no way we could find this lot split in the public interest, or consistent with the Missoula County Comprehensive Plan.
>
> Allowing more lot splits like this beyond what C.O.S. activity has already occurred seems to me to directly support urban sprawl and the inefficient provision of services.
>
> If we want to get enough density in this area to pave Indreland, Polecat, and Falcon Roads and encourage a distinct, well-defined neighborhood, we should do so by updating the Wye/O'Keefe Plan accordingly. Perhaps this area should show up as the next "planned development" district in the Wye area.
>
> Note that several other C.O.S. parcels in the vicinity would have a similar potential to be split, if this one gets approved. Do the Commissioners want to set this precedent and support this trend? If so, we should amend the Wye/O'Keefe Plan immediately to reflect this."

He said according to a letter written by Zoe Mohesky, County Rural Planning Office, one should be aware that adequate water supply for this area may not be available. During a site inspection she spoke with a neighboring landowner whose land is currently vacant and will probably remain vacant since attempts to drill wells on his land in excess of 600 feet has failed to produce an adequate water supply, both for quality and quantity.

He said a letter was received from a property owner to the west who stated that their main concern was the water in the area. Some homeowners have had to redrill because of wells going dry. They are concerned that as more wells are drilled, the water table is sure to be lowered.

He said Tom Barger of the Missoula City/County Health Department commented that Falcon Acres is proposed in an area that has had problems obtaining water.

He said the width of Running Deer Lane is 18 feet at the most, and is not built to County standards. There is little gravel on the road. The road is required to have a 24-foot width. The road, over 2000 feet in length, has a cul-de-sac at the end; the maximum permissible length of such a road is 1000 feet.

The Community Development staff recommended that the summary plat of Falcon Acres be denied, for the following reasons:

1. The development does not meet or substantially comply with the Comprehensive Plan designation for this area.

2. Physical access is not provided for in this development. *Article 3-2 (5), (8), & (9) and 4-1 (10) (D) MCSR*

3. Water quality and availability in this area should be addressed before subdivision occurs. *Article 3-7 (1) MCSR.*

The hearing was opened to public comment.

Scott Waldron, Frenchtown Rural Fire District, said that the district has no problem providing service to this development. However, in the event that additional development occurs on the road, someone needs to be responsible for bringing this road up to adequate standards.

Andy Fisher, Eli & Associates, representing Roger Hobbs, commented on the water issue. They received the hydrologist's report which stated that this is not the easiest area to obtain water. This particular lot has access to well drilling sites in the Johnson Creek Valley. He displayed a map which showed an existing easement of record to Johnson Creek area which allows for wells to be drilled and waterlines established to the area. Johnson Creek is an intermittent creek. The hydrologist's summation was that there was water, but they will have to find it. There are some good wells up and down the stream. Two wells have been dug recently which have been 20 gallons a minute. He said the report also referred to the non-degradation standards; the impacts will be insignificant from the proposed two lot subdivision.

Regarding the issue of the roads, he said Running Deer Road was originally constructed to County standards. The road was built as part of the old Meadows development. The driving surface is narrowing because the knapweed is moving in on the shoulders. There isn't sufficient traffic to keep the knapweed off the shoulder. A blade operator can fix the problem in one day; it is not a major problem. He said Running Deer Road is the physical access. The road is a private easement road that is homeowner maintained. There are presently four homes on the road that are titled and have legal access.

Regarding the Comprehensive Plan, he said the plan designates the area as open and resource lands. He displayed a map of existing tracts. There is a great difference between what exists and what the Comp Plan calls for. He said they are proposing two lots of 2.5 and 2.2 acres. The lots in the surrounding area are in the 2 acre range. There are 23 developed lots. Eighteen of those lots are less than 3 acres in size. The proposed division is not going to affect the character of area.

He urged the Commissioners to use a "pragmatic approach" in their decision. The public is choosing to live in this area. Regardless of what happens to this proposed subdivision, development will occur. There is an opportunity for low to affordable housing because improvements are available. He said the development will not have high development costs. He said if the development is approved, there would be waivers to protest an RSID to upgrade Indreland Road. Twenty-three other homes already exist on Indreland which could contribute to the road. There is four-lane access to town. The area is being developed regardless of the Comp Plan.

Fern Hart asked where the water source was for the fire protection?

Michael Sehestedt, Deputy County Attorney, said there were some summary plats approved down the road which were required to have cisterns for fire protection.

Barbara Evans said the Board recently approved a subdivision which, to her, isn't any different. She asked how much land Mr. Hobbs owned in the same area?

Roger Hobbs, who is a developer new to the area from San Diego, California, and who in the past 20 years has built approximately 5,000 homes, said the Baron O'Keefe area is a good area for a variety of types of development. He said he has acquired a number of parcels which included the 75 acres (Red Hawk Acres) and various other smaller parcels. He said before he bought the properties, he investigated the water situation. Water can be found at 110-120 feet. He said this is a good area for affordable housing. The finished product is priced based on the cost; it is helpful to have the resources to do affordable housing.

Barbara Evans said she asked the question to find out if Mr. Hobbs had enough land to bring in a Planned Unit Development instead of two acres at a time. The fact that the parcels are not in contiguous ownership changes the situation. With good, adequate planning, it would be a real asset to this area.

Roger Hobbs said it looked as though the subdivision was consistent with the existing development. There is water and road for the property.

A question arose concerning the existing covenants under the Baron O'Keefe development. It was concluded that the proposed subdivision would be subject to the existing covenants. There has been at least one amendment to the covenants. There has been litigation between the County and the Baron O'Keefe development.

Michael Sehestedt said there were some changes to the covenants when the County sued over the original Baron O'Keefe Meadows split. There were some changes in the requirements as a result of the litigation. The County required the homeowner's association to be responsible for the roads.

Fern Hart said she did not look favorably on development continuing like it has been. It is up to the Commissioners to get some kind of zoning in this area.

Ann Mary Dussault asked what the original boundaries of the Meadows of Baron O'Keefe were?

Greg Martinsen, Martinsen's Surveying, showed the Commissioners the original boundaries of the Meadow of Baron O'Keefe. The property was under several deeds and one ownership.

Ann Mary Dussault asked if the area to the east of Highway 93 was under a separate deed?

Greg Martinsen said yes. There were two different Certificates of Survey. They were separated because of the Highway.

The hearing was opened to public comment.

Greg Martinsen said for several different clients, he has done numerous surveys in this area. He said he did a considerable amount of work putting the roadway back into the ownership of the adjoining owners. The covenants for the whole parcel require a two acre minimum lot size. He said he had serious reservations about the use of a Comp Plan as a planning tool where it is obviously no longer applicable. Something should be done about this. However, there isn't much time. People have to have houses. This is an area of growth that must be looked at. There are probably three or four areas that have to be looked at relative to what has happened since the Comp Plan was instituted. Nothing has been done to update the plan to bring it to the standards of the area and the growth that has occurred. He urged the Commissioners not to use the Comp Plan as a basis for their decision--it is not applicable.

Barbara Evans said the Commissioners do not have a legitimate reason to deny this summary plat. She said she would prefer to see a Planned Unit Development submitted. However, Mr. Hobbs doesn't own enough land to bring one in. The Commissioners recently approved Red Hawk Acres, a summary plat in the same area. The plat didn't qualify based on the Comp Plan, but it was approved anyway.

Barbara Evans made a motion to approve the summary plat of Falcon Acres based on the fact that physical access has been provided, information relative to the water quality and the availability of water has been provided, and based on the findings of fact in the staff report. The motion died for lack of a second.

Ann Mary Dussault moved and Fern Hart seconded the motion to deny the request for a summary plat for Falcon Acres. The motion carried on a vote of 2-1 with Barbara Evans voting against the motion.

Ann Mary Dussault said a number of points the developer brought up were legitimate. However, when the County made the decision to forego litigation over the Meadows of Baron O'Keefe, she said she was a dissenter in this decision. Since this time, she has never voted in support of a development in this area. She said she was not necessarily opposed to looking at this area as appropriate infill development for the County. Appropriate infill development needs to be looked at within the four and a half mile range of the City limits. However, she said she didn't want to do it simply because a pattern of development has developed. Thought should be put into planning this area. All of the development that has occurred in this area has been unreviewed for any purpose whatsoever. It may be that Mr. Hobbs, who is a person with a certain amount of holdings, will be the impetus to do this out there. Unfortunately someone has to end up being the catalyst to start the discussion about appropriate infill with a neighborhood discussion which might be a petition for zoning changes. Until then, she said she did not intend to support any further divisions of land in this area.

Fern Hart said she was willing to work with the folks to do zoning for the Baron O'Keefe area.

HEARING - CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER (SWANSON) TRACT U OF COS 3607

Kathy Smith, Paralegal for the County Attorney's Office, explained that Swan and Angela Swanson submitted a request for a family transfer exemption for Tract U of COS 3607. The parcel is a 19.87 acre parcel and Mr. and Mrs. Swanson propose to transfer approximately 10 acres of the parcel to Mr. Swanson's mother, Marlys Swanson. Marlys Swanson gave her son and daughter-in-law half the money to purchase the property, $22,000. This was pursuant to an understanding from the realtor they would be able to use the family transfer exemption to split the property. Both parties intend to build homes on the parcel.

The history of the parcel is as follows: Mr. and Mrs. Swanson bought the parcel from Mark Alan Hurley in June, 1993. Mr. Hurley purchased the property from Harry M. Bandy in September, 1991. Mr. Bandy created Tract U along with Tracts A, V, W, X, Y and Z in October of 1988. Tract X was created using the exemption for creation of a parcel 20 acres or larger. Tract Y was a boundary relocation. Tracts A, U, V, W, and Z were retracement surveys.

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

The hearing was opened to public comment.

Greg Martinsen, Martinsen Surveying, explained the property is located in the Potomac/Greenough area.

Fern Hart asked about legal and physical access.

Greg Martinsen read the easement on the COS for legal access. He said Tract U was not created by COS, but was created as a retracement. He said the access to the property is a county-maintained road.

Horace Brown, County Surveyor, said Camas is a petition road which is a road that was petitioned by the landowners and approved and accepted by the Board of County Commissioners as a County road. It is maintained by the Surveyor's Office.

Swan Swanson explained that he and his wife had been looking for property since last summer. At the time, his mother lived in Colorado. They found the 20 acres and wanted the land. He said his mother put half of the money on the property. At the time the land was purchased, his mother was still residing in Colorado, so her name isn't even on the deed. They would like to split the land into two 10 acre parcels. The acreages in the area vary from 10 to 20 acre parcels. Potomac is the nearest school which is 5 miles away. The bus stop is one mile from the property.

Ann Mary Dussault asked what the applicants' intent was for the property?

Swan Swanson explained that he and his wife wish to reside on the property. While they do not yet live on the property, they will build a home on the property, this summer. He said it was also his mother's intent to reside on the property. She will also build a home this summer.

Ann Mary Dussault explained that it is the job of the Commissioners to determine whether the applicant's intent is to evade the subdivision law.

Colleen Dowdall, Deputy County Attorney, said a gift to a mother is a gift to a family member.

A discussion ensued relative to the transfer of the deeds to the property. It was concluded that it was the applicant's intent to divide the property in half; the applicant and his mother will each hold separate title to the parcels.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request submitted by Swan and Angela Marie Swanson for a family transfer exemption for Tract U of COS 3607, based on the finding that the request does not appear to evade the Montana Subdivision and Platting Act, and that the applicants intend to give title to both parties for the property. The motion carried on a vote of 3-0.

HEARING - CERTIFICATE OF SURVEY REVIEW: BOUNDARY RELOCATION (TWITE) TRACT 1 OF COS 2537, TRACT 1 OF COS 4033, PARCEL DESCRIBED AT BOOK 336, PAGE 807 & TRACT A OF LINDA VISTA 4TH SUPPLEMENT

Kathy Smith, Paralegal for the County Attorney's Office, explained that Lloyd A. Twite submitted a request for boundary relocations for Tract 1 of COS 2537, Tract 1 of COS 4033, the parcel described Book 336, Page 807 and Tract A of Linda Vista 4th Supplement. Mr. Twite proposed to combine all of the above lots into one parcel for use as a golf course and create three additional parcels for use as residential sites. The three proposed residential sites are to be approximately .5 acres in size.

The history of the parcel is as follows: Tract 1 of COS 2537 is a 5.5 acre parcel created in February, 1981, using a boundary relocation exemption. Tract 1 of COS 4033 is a 18.72 acre parcel created in January, 1992, with the use of an agricultural exemption. The parcel described in Book 336, Page 807 is a 24 acre parcel and was purchased from Richard and Kathleen Morse in August, 1991. Tract A of Linda Vista 4th Supplement is a .24 acre parcel which is deemed unbuildable.

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

The hearing was opened to public comment.

Gilbert Larson explained there are four existing lots; there will be four lots after the boundary relocations. He said the request will not create new sites, however the relocations will change the lots drastically. There is an existing residence on one lot. The golf course sits on two of the lots. The other lot is an existing agricultural exemption. When the boundary relocations are completed, one site will have the pro shop and the golf course. One lot will have the existing residence and the two additional sites which will be used for two new residences.

The relocations will not enlarge the golf course, but will create one description for the course. A double-wide mobile home exists on the corner of the golf course. A new residential site will be located adjacent to this lot.

Ann Mary Dussault said there are four sites now, but four are not buildable sites.

Gilbert Larson said in order to build on the lot, the sanitary restrictions must be lifted. With the sewer extension, the site is buildable.

Barbara Evans said the developer is not asking to build on the agricultural exemption, but merely to aggregate the lots.

Ann Mary Dussault said the Commissioners must agree to lift the agricultural exemption. She said it never occurred to her that the agricultural exemption would ever be considered a buildable lot. Also, the golf course wouldn't be considered a buildable lot. She said she had no trouble aggregating the lots for the purposes of obtaining a singular legal description for the golf course, but the assumption that the Board would approve the building sites was bothersome to her. The exchange was not the same. There was no problem with the lot with the mobile home because it was an existing residence.

Gilbert Larson said the proposed boundary relocation where the building sites would be located have no restrictions. One of the lots will continue to have the agricultural exemption; the golf course will have no residences located upon it. He stated, however, that the two tracts, as they existed, have building restrictions on them.

Ann Mary Dussault asked if the parcels would contribute toward both the RSID for the sewer and the road? This would be an indication of how the Commissioners thought of these tracts.

Gilbert Larson said the golf course was assessed 10 units for the road construction. The golf course was not a part of the sewer RSID. The new lots will access the sewer and will pay their fair share.

He said the purpose of this hearing is to decide whether the owner is evading the subdivision law by reviewing the history of the property and of the applicant. He said it is very noteworthy that Lloyd Twite, who has extensive land holdings and has been a developer in Missoula County for the last 20 years, has never used an occasional sale exemption or a family transfer. He has use the relocation of common boundary, but only two times in 20 years. He has never evaded subdivision and has been forthright with his dealings with the County. The history of this owner is not to evade subdivision; the owner wants to clean up a piece of ownership that has some problems. With the new alignment of Lower Miller Creek Road, a piece of the lot where the golf course is located will be across the road. He said there are four existing tracts; no new tracts will be created. They are not requesting that the agricultural exemption be lifted.

Ann Mary Dussault said in it is not uncommon that boundaries are relocated in order to make buildable sites workable. However, she said this request is stretching it to suggest various building sites. She said the applicants are suggesting that the golf course and the agricultural exemption constitute potential building sites and therefore, the end result should be four building sites.

Gilbert Larson said the real intent is not to evade subdivision, but to relocate tracts of ground whose uses have changed dramatically in the last few years. Something needs to be done to correct the boundary problems. The relocations will not end up as a subdivision.

Colleen Dowdall said there are four lots total; when the boundaries are relocated, there still will be four lots.

Fern Hart said she didn't see a problem with the request, except that this request is the biggest stretch she had ever seen. The developers have a problem which needs to be fixed. She said if the developer was to come in with a subdivision, she didn't know what else he could do; the property has access, sewer, etc.

Barbara Evans moved and Fern Hart seconded the motion to approve the request submitted by Lloyd A. Twite for boundary relocations for Tract 1 of COS 2537, Tract 1 of COS 4033, and the parcel described Book 336, Page 807 and Tract A of Linda Vista 4th Supplement, who proposes to combine all of the above lots into one parcel for use as a golf course and create three additional parcels for use as residential sites. The approval was awarded based on the finding that the request does not appear to evade the Montana Subdivision and Platting Act, and based upon the fact that the applicant has never used exemptions to the Subdivision and Platting Act. The motion carried on a vote of 2-1 with Ann Mary Dussault voting against the motion.

PUBLIC COMMENT

Greg Martinsen, Martinsen Surveys, referred to the Salmon Lake Shore Sites hearing. He said the biggest reason a person would buy a place at lake is for privacy. Much of the time spent is on the dock. He said he

FEBRUARY 2, 1994 (CONT.)

had a cabin on Flathead Lake with a shared dock--he got rid of it because of the dock situation. He said on Flathead Lake there are hundreds of places with trails to the lake; steps will be ugly.

Ann Mary Dussault said the solution is five accesses with five docks. There are many lots on Flathead that do not have access and are selling for unbelievable amounts of money. It is a matter of demand.

Greg Martinsen said it is a matter of personal desire and preference. Each of the lots will have almost 300 feet of frontage on the lake. He said the residences who have to share access and a dock will have to walk a good distance to use a common dock. The main reason a person would buy in this area would be for the privacy.

There being no further business to come before the Board, the Commissioners were in recess at 4:55 p.m.

FEBRUARY 3, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Warranty Deed

The Board of County Commissioners signed a Warranty Deed from Missoula County to Washington Development Company for the following described premises: A tract of land (old asphalt plant) to be known as Parcel B, situated in the W1/2 of Section 8, T13N, R19W PMM, containing 2.74 acres more or less.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and Druyvestein, Johnson and Anderson, for the purpose of completing roadway improvements including widening, drainage and paving on Humble Road and Sundown Road (RSID No. 8457), as per the terms set forth, for payment in the amount of $12,638.00. The Agreement was returned to Jesse Sattley, RSID Coordinator, for further handling.

Modification of Agreement

Chair Hart signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences to modify Section III, paragraph (1) of the agreement concerning provision of TB services (DHES No. 340270) in order to add $4,000.00 to the available funding, increasing the reimbursement by DHES to a maximum of $10,000. The document was forwarded to DHES in Helena.

Other items included:

> Chair Hart signed acknowledgment of receipt of copies of the audit report for Missoula County for the year ended June 30, 1993, from Elmore & Associates, P.C. The acknowledgment was returned to Elmore and Associates.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

FEBRUARY 4, 1994

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, Barbara Evans attended a meeting of the Judicial Standards Commission held in Judge McLean's Conference Room in the Missoula County Courthouse.

Vickie M. Zeier
Clerk and Recorder

Fern Hart
Fern Hart, Chair
Board of County Commissioners

FEBRUARY 7, 1994

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

FEBRUARY 7, 1994 (CONT.)

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Chloe Redmond as principal for warrant #C44024, dated June 11, 1993, issued on the Missoula County High Schools fund in the amount of $45.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Plat

The Board of County Commissioners signed the Plat for Von El Estates, Lots 1A, 1B, and 1C, a three-lot summary subdivision of Lot 1, Von El Estates, located in the NE1/4 of Section 3, T11N, R20W, PMM, Missoula County, with the owner/developer of record being Raymond E. and Mary K. Bennett.

Quitclaim Deed

The Board of County Commissioners signed a Quitclaim Deed from Missoula County to Chevron Oil Co., Western Division, for SUID #0320503 - improvements on leased land, McWhirk, Lots 1 to 3, Block Z, Missoula County, to cancel the tax deed recorded on January 20, 1994. The Quitclaim Deed was returned to the Recording Office.

Resolution No. 94-016

The Board of County Commissioners signed Resolution No. 94-016, a resolution revoking an Agricultural Exemption on Certificate of Survey 3798, Tract 2, as the current owner, of Tract 2, Philip D. Tawney, wishes to revoke the agricultural exemption in order to transfer a portion of that property to a family member to be used for residential purposes at a future time.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

FEBRUARY 8, 1994

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

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Quinn M. McCann as principal for warrant #0022738, dated October 8, 1993, issued on the Bonner School District #14 General Fund in the amount of $46.07 now unable to be found.

Monthly Report

Chair Hart examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending January 31, 1994.

Monthly Report

Chair Hart examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending January 31, 1994.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-017

The Board of County Commissioners signed Resolution No. 94-017, a resolution concurring with the Montana Highway Commission's designation of a highway approximately 3.9 miles in length in Missoula County as Secondary Route No. 474, Secondary Project No. RTS 474-1(3)0 (Pulp Mill Road), as per the items set forth, with the project being scheduled for bid opening on March 24, 1994.

FEBRUARY 8, 1994 (CONT.)

Lease Contract

The Board of County Commissioners signed a Contract between Missoula County and the Montana Department of Social and Rehabilitation Services for the purpose of securing office space located at 301 West Alder in Missoula, Montana, consisting of 8240 square feet, for the term of four years and six months, commencing on the first day of January, 1994, and ending on the 30th day of June, 1998, with the total amount of rent during the term of the contract being $288,605.00, payable in equal quarterly installments of $15,676.60 reflecting a cost of $7.61 per square foot per year. One original was returned to Carole Graham in Human Services for further handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract with Leslie Vandersloot, an independent contractor, for the purpose of providing consulting services for HOME Improvement Partnership Program Environmental Reviews, as per the terms set forth, for the period commencing January 12, 1994, and concluding completion of performance by May 6, 1994, for compensation in an amount not to exceed $915.00.

Other items included:

1) the Commissioners signed approval on a letter from Hal Luttschwager, Risk Manager, to James Wm. Glantz of Whitefish, MT denying his claim for damages and injuries against Missoula County for false arrest;

2) the Commissioners appointed Willene (Billie) Gray as first alternate and Jeanne T. Tallmadge as second alternate on the County Zoning Board of Adjustment through December 31, 1995;

3) the Commissioners appointed Raymond Gardner to the City-County Animal Control Board to a 2-year term through December 31, 1995; and

4) the Commissioners signed concurrence on a memo from Auditor Susan Reed correcting her earlier memo regarding mileage reimbursement for 1994, stating that it remains at 28 cents per mile for the first 1,000 miles traveled per month.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

FEBRUARY 9, 1994

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

Audit List

Commissioners Hart and Dussault signed the Audit List, dated February 8, 1994, pages 2-42, with a grand total of $184,086.54. The Audit List was returned to the Accounting Department.

Monthly Report

Chair Hart examined, approved and ordered filed the Monthly Report of Sheriff Doug Chase, showing the items of fees and other collections on account of civil business in Missoula County for month ending January 31, 1994.

DAILY ADMINISTRATIVE MEETING

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

Contract for Preferential Repurchase of Tax Deed Property

The Board of County Commissioners signed a Contract for Preferential Repurchase of Tax Deed Property between Missoula County and Michael P. O'Connell, to repurchase the property located in Lot 4, Block 11, in School Addition, Missoula County, Montana, SUID #578208, as per the terms set forth, for a total amount of $3,713.84, as per the payment schedule set forth in the Contract. The Agreement was forwarded to Teresa Graham in the Treasurer's Office.

FEBRUARY 9, 1994 (CONT.)

Resolution No. 94-018

The Board of County Commissioners signed Resolution No. 94-018, a Budget Amendment for FY'94 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Adopted	Change Budget	Amended
Computer Supplies	$ 150	$ 20,000	$20,150
Capital - Office Equipment	$1,000	$ 8,000	$ 9,000
	$1,150	$ 28,000	$29,150

Description of Revenue		Revenue	
Federal Grant PHC	$397,000	$28,000	$425,460

NGA amendment CSH800633-02-1 received 12/30/93. FY-CAN 33981160.

Agreement

Chair Hart signed a Bond and Paying Agent Agency Agreement between Missoula County and Trust Corp, located in Great Falls, Montana, for the purpose of appointing Trust Corp as its sole Registrar and Paying Agent for the registration and disbursement of principal and interest payments for securities of the County; such appointment to take effect on January 28, 1994, as per the fee schedule set forth. The Agreement was returned to Hal Luttschwager, Risk Manager, for further handling.

Letter of Understanding

The Board of County Commissioners signed a Letter of Understanding between Missoula County and the Federation of Missoula County Employees in order to establish the parameters of a four-day, ten-hour work schedule for employees of the Motor Vehicles Office and to amend the collective bargaining agreement, as per the items set forth, to remain in effect until June 30, 1994, or until the Employer determines a four day, ten-hour work schedule is no longer acceptable or workable, whichever occurs first. The Agreement was returned to John Pemberton, Personnel Director, for further handling.

Other items included:

1) the Commissioners appointed Susan Allen as a member of the Missoula Aging Services Governing Board for a three-year term through December 31, 1996;
2) the Commissioners appointed Erwin Byrnes as first alternate and Gladys Hardin as second alternate on the Missoula Aging Services Governing Board for three-year terms through December 31, 1996; and
3) the Commissioners reappointed Pam Tabish to the Library Board to serve a three-year term through December 31, 1996.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

PROCLAMATION: PUBLIC HEALTH NURSE WEEK

The Commissioners signed a Proclamation as follows:

WHEREAS Public Health Nurses have worked with diligence and vigor for 100 years in the United States and over 70 years in Missoula to improve the health of the entire community through Health Promotion, Health Maintenance, Disease Prevention; and

WHEREAS Missoula's Public Health Nurses, having special education, skills and preparation to work with families in their homes and in our community, so very ably combine Health Education and Health Counseling with the direct intent of promoting the health of the entire community; and

WHEREAS Missoula's Public Health Nurses build on each family's unique strengths in the home environment to create appropriate solutions to health problems; and

FEBRUARY 9, 1994 (CONT.)

WHEREAS Missoula's Public Health Nurses help families develop solutions to health care problems also by acting as Advocates for Access to Community Resources, in partnership with other public and private agencies; and

WHEREAS Missoula's Public Health Nurses are taking a significant step forward in this community by re-instating the historic practice of Neighborhood Nursing,

THEREFORE, In celebration of, and in appreciation for the unsung but great contributions of Missoula's Public Health Nurses to maintaining our very high standards of community health, we hereby proclaim that the week of February 14, 1994 is PUBLIC HEALTH NURSING WEEK in Missoula County, Montana.

Fern Hart invited the nurses and staff in the audience to come to the front of the room where they received the thanks of the Commissioners and photographs were taken. She read from a brochure entitled, "Missoula's Public Health Nurses are Celebrating Our Next 100 Years of Healthy Tomorrow's":

Missoula's Neighborhood Nurses

> In the beginning it was called "district nursing." Now, around the country, it's called Community Health Nursing, or Public Health Nursing. In Missoula, we are Public Health Nurses who like the phrase "Neighborhood Nursing." It tells what we do. We go into the community and visit people in their homes, with their families, in their child care centers, and sometimes at their jobs. Prevention is our number one job. Prevention is one of the hot new words in health care. We think that's great because we've been in the prevention business since 1893. And we're ready to practice prevention for another hundred years."

DECISION: RESOLUTION OF INTENT TO ADOPT FORT MISSOULA PLAN AMENDMENT (POSTPONED FROM JANUARY 12TH)

Ann Mary Dussault moved and Barbara Evans seconded the motion to postpone the decision on the Resolution of Intent to Adopt Fort Missoula Plan Amendment until the Public Meeting on March 16, 1994. The motion carried on a vote of 3-0.

Ann Mary Dussault explained that part of the reason to postpone is there is some natural resource protection language that needs to be protected and strengthened. The Board has asked OCD to work on strengthening this plan.

SALE OF TAX DEED PROPERTY

Michael Sehestedt, Deputy County Attorney explained that this is property Missoula County has taken as tax deed. When taxes are not paid, the County takes an assignment of the tax lien. At the end of 24 months for subdivided, undeveloped property, or 36 months with property with improvements, notice is given and application for tax deed is given. The taxpayer, owner, successor, and interest who does not pay the taxes or after the issuance of tax deed, they may repurchase the property from the County. The County is obligated to offer the property to the public for sale at auction. The minimum bid that can be accepted is the fair market value of the property as determined by appraisal. Should the property not sell at this auction, the County will have the option of reconsidering the taxable value and either raising or lowering the bid price and offering it again for sale at a public auction. The affect of this auction is to effectively cut off the repurchase rights of the original taxpayer, his successor or assigns.

Information provided by Phyllis E. Browder, Recording Supervisor in the Clerk and Recorder's Office, explained that as required by M.C.A. 7-8-2301 (3) this is the first auction for the 1989 36-month delinquencies. The following is a list of the parcels that are to be auctioned, along with the fair market value for each parcel as determined by Jim Fairbanks, Appraisal Office.

MOUNTAIN SHADOWS #1--LOT 3 BLK 5	20,000.00
MOUNTAIN SHADOWS #1--LOT 39 BLK 5	20,000.00
MOUNTAIN SHADOWS #1--LOT 4 BLK 5	20,000.00
MOUNTAIN SHADOWS #1--LOT 5 BLK 5	20,000.00
WESTVIEW #3--LOT 17 BLK 7	14,000.00
WESTVIEW #3--LOT 18 BLK 7	14,000.00
WESTVIEW #3--LOT 19 BLK 7	14,000.00
WESTVIEW #3--LOT 20 BLK 7	14,000.00
IN NE 1/4 NW 1/4 PLAT A 10-12-20 1.019AC	2,500.00
IN NE 1/4 SE 1/4 PLAT G 14-13-16 .028AC	280.00
TRACT BC-1 IN W 1/2 NE 1/4 PLAT A1-10-1 36-14-20 6AC	18,000.00

The Notice of Tax Deed Land Sale was published in the Missoulian for consecutive Sundays and posted in three places as required by M.C.A. 7-8-2302.

FEBRUARY 9, 1994 (CONT.)

A copy of the tax deed and a courtesy letter was mailed to all interested parties on January 26, 1994, stating that they had the right to redeem the property prior to the auction.

Michael Sehestedt opened the auction to bidding with the following results:

MOUNTAIN SHADOWS #1--LOT 3 BLK 5	20,000.00	DAN REINER
MOUNTAIN SHADOWS #1--LOT 39 BLK 5	20,000.00	KATHY SWANNACK
MOUNTAIN SHADOWS #1--LOT 4 BLK 5	20,000.00	STEWART & MYSTA WORDEN
MOUNTAIN SHADOWS #1--LOT 5 BLK 5	20,000.00	BEVERLY REINER
WESTVIEW #3--LOT 17 BLK 7	14,000.00	NO BID
WESTVIEW #3--LOT 18 BLK 7	14,000.00	NO BID
WESTVIEW #3--LOT 19 BLK 7	14,000.00	NO BID
WESTVIEW #3--LOT 20 BLK 7	14,000.00	NO BID
IN NE 1/4 NW 1/4 PLAT A 1 0-12-20 1.019AC	2,500.00	NO BID
IN NE 1/4 SE 1/4 PLAT G 14-13-16 .028AC	280.00	NO BID
TRACT BC-1 IN W 1/2 NE 1/4 PLAT A1-10-1 36-14-20 6AC	18,000.00	NO BID

Michael Sehestedt explained that of the properties listed, School Lot 4, Blk 11 had been redeemed by purchase by the original owner and is no longer available for sale. All other properties were available for sale at this time.

QUITCLAIM DEEDS (4)

The Board of County Commissioners signed four Quitclaim Deeds from Missoula County to Dan Reiner for property located at Mountain Shadows #1--Lot 3 Blk 5 in the amount of $20,000.00; Kathy Swannack for property located at Mountain Shadows #1--Lot 39 BLK 5 in the amount of $20,000.00; Stewart and Mysta Worden for property located at Mountain Shadows #1--Lot 4 BLK 5 in the amount of $20,000.00; and Beverly Reiner for property located at Mountain Shadows #1--Lot 5 BLK 5 in the amount of $20,000.00.

CONSIDERATION OF: SUNNY ESTATES (SUMMARY PLAT) POSTPONED FROM JAN. 26TH

Ron Ewart, Planner at the Office of Community Development, explained that Sunny Estates is a proposed 3-lot subdivision of 2 existing tracts of property located in the NE 1/4 of Section 21, T19N, R16W, approximately 17 miles north of Seeley Lake in the Swan Valley. The two existing parcels total 38 acres in size. The proposal is to split the aggregate parcel into one lot of 10.35 acres, one lot of 15.98 acres, and one lot of 11.60 acres; each lot fronts on State Highway 83. A gravel road accesses Highway 83 near the north end of the properties. Lots 1 and 2 will access via this approach, and an existing residence to the north currently uses this road. Lot 3 will access via a proposed approach near the north end of Lot 3, if approved by the Montana Department of Transportation.

Currently no homes exist on the site. The NE 1/4 of Section 21 is a forested area of privately owned very low density single family residences. Forest Service property lies to the north and east of this 1/4 section, while the remainder of Section 21 is owned by Plum Creek. The area is unzoned and the Missoula Comprehensive Plan designates it as "Rural Low Density" at a recommended one dwelling unit per 10 acres. Sewer and water will be provided by individual on-site systems. Existing Missoula Electric Cooperative overhead powerlines access all 3 lots.

The property is located less than one mile from the "summit", which is the divide between the Swan River and Clearwater drainages. The divide area is important wildlife habitat, and it is a designated travel corridor for the grizzly bear between the Swan and Mission Mountain Ranges.

The Community Development staff recommended that the summary plat of Sunny Estates be approved, subject to the following conditions:

1. An approach permit for Lot 3 shall be applied for and granted by the Montana Department of Transportation on Lot 3 prior to filing of the final plat, and the access location shall be shown on the plat. *Article 3-1(1)(E)*

2. Public utility easements shall be shown along the powerlines on the property. Easements location and width shall be approved by the appropriate utility and governing body. In addition to showing the location of the utility easement, the following statement shall be shown on the face of the plat:

> "The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television,

water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilitates, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever." *Article 3-5 and 3-6*

3. The subdivider shall grant a 60-foot access easement along the existing gravel road that provides access to Lots 1, 2, and the lot to the north of the property. *Article 3-2(2)(D)*

4. The developer shall be annexed into the appropriate fire district prior to filing of the summary plat. *Article 4-1(11)(A); local services and public safety.*

5. The driveway plans for emergency vehicle access and turnarounds shall be approved by the appropriate Fire District prior to filing of the summary plat. If actual plans have not been drawn by the time the plat is filed, then a typical plan shall be approved. *Article 3-2(6)*
6. The following statement shall appear on the face of the plat:

The No Improvement Zones (NIZ) shown on the plat shall be held in perpetuity and shall run with the land. Within these zones shall not take place any construction, excavation, or other alteration of the natural landscape or vegetation. (See also agreement and covenants.) *Clarification of use in zones proposed by developer in response to comments by Fish, Wildlife & Parks.*

7. The covenants shall be approved by the Office of Community Development, the Rural Planning Office, the Montana Department of Fish, Wildlife, & Parks Region One, and Dr. Chris Servheen, Grizzly Coordinator of the U.S. Fish & Wildlife Service. *Comments of Rural Planning, due to sensitive wildlife habitat.*

8. The developer shall enter into an agreement with the governing body to address natural resource and wildlife habitat protection, to be approved by the governing body. *Strong agency comments have been received regarding protective measures in this grizzly corridor that should be enforceable and not be changeable.*

Andy Fisher, Eli & Associates, commented on Condition #4, which required that the development be annexed into the appropriate rural fire district. He requested that language be added, "or demonstrates suitable fire protection." He said they weren't sure there was actually a district in the area; there is the Swan Valley Volunteer Fire which is not an actual district.

He referred to the agreement between the development and the Board of County Commissioners. He wondered if language could be added in the Land Use Section which stated, "strictly residential", something that would allow for working out of the home. The language "home occupation" could be added. There are a lot of people who work at home.

Barbara Evans asked if Colleen Dowdall, Deputy County Attorney, had changed the language in the agreement regarding the protection of the timber in the subdivision?

Colleen Dowdall said she figured that there would be some discussion about this at today's hearing.

Barbara Evans said this subdivision is in a very critical grizzly bear corridor. The Commissioners are concerned about this area because of the threatened and endangered species that use this corridor. She said at the same time, if the Board did not agree to the split, the owner could simply clear cut the property. This would impact the land even more. It is important to the residents and all who care about the creatures, that they not be sacrificed on the alter of money making. She wondered whether the owner was agreeable to leave the timber if the Commissioners agree to this split?

Andy Fisher said the owner is not a California developer; this is a logger from Stevensville. He said the owner is not comfortable with some of the covenants and suggestions; he is worried he will end up with three lots he will not be able to sell. He said after the approval, the developer has six months to file the plat. He will suggest to the owner that he put the properties on the market before the plat is filed to see what he gets. If nothing happens, they might not file the plat and do something else. He said the only thing he was worried about was a strict prohibition on the cutting and thinning of trees. If there was a pest outbreak, a fire, etc., trees would have to be cut. Some flexibility must be allowed for controlled maintenance.

Fern Hart said all three lots will be sold. The owner of record doesn't plan to live on any of the lots.

Andy Fisher said what it boils down to is the owner is trading the value of the timber for a third lot. The owner prefers to sell the three lots rather than cut the timber.

A discussion followed relative to the owner of record. It was concluded that there was no buy/sell agreement on the property. The current owner is the developer.

Fern Hart in regard to the language concerning a home office, said she can have a computer, a fax, or a modem where she lives and could work at home in that capacity if she chose to.

Andy Fisher said he didn't want the residents to have problems later on if they chose to work at home. He said he just wanted to eliminate a possible problem.

Fern Hart said if the language referred to a home office, it wouldn't limit patients.

Michael Sehestedt, Deputy County Attorney, suggested language as follows: "Single family residence may be used for business or commercial use if it does not involve visits by customers or patrons to the premises or the storage of material or supplies outside the residence."

Ann Mary Dussault asked if the developers were comfortable with the language suggested earlier regarding the cutting of timber?

Colleen Dowdall read the suggested language, Section 5--Wood lot maintenance: "Normal thinning, firewood cutting, and other wood lot maintenance is permitted. Logging shall not be allowed, unless that logging is done in accordance with accepted best management practices and State law and with the permission of the Board of County Commissioners. Clear cutting shall not be allowed. The Commissioners may seek the advice of those agencies or individuals they deem appropriate in order to determine whether logging is a danger to threatened and endangered species or other resources. The cost of such analysis would be borne by the landowner."

Ann Mary Dussault suggested that language be added that the wood cutting should be allowed for firewood for use by the landowner only.

Andy Fisher said the lot purchasers must realize that if any logging will occur, it has to be for a reason; it can't be that they want to make a buck on the timber.

Ann Mary Dussault said she wanted to make sure it was this language that Andy Fisher was familiar and comfortable with.

Andy Fisher said they have tried to make it clear to the owner that logging is not an option for someone to log the lot in order to pay off the land.

Colleen Dowdall said she also discussed with Andy Fisher that the documents may be refined so the same paragraphs will not be in the agreement and the covenants for purposes of agreement.

Ann Mary Dussault said in this case, the covenants will be non-amendable unless concurred by the Board of County Commissioners.

Ron Ewart commented on Condition #4. He said he hadn't changed the condition because for days he couldn't reach the Condon Rural Volunteer Fire Company. He wanted to contact them to try to find out some information. The fire company is not in a district; however, they could annex into the Seeley Lake Fire District by paying a fee service. He suggested language for Condition #4: "The subdivision shall be annexed into the appropriate fire district or shall demonstrate that fire protection will be provided prior to filing of the summary plat."

Barbara Evans moved and Fern Hart seconded the motion to approve the summary plat of Sunny Estates based on the findings of fact in the staff report and subject to the following conditions:

1. An approach permit for Lot 3 shall be applied for and granted by the Montana Department of Transportation on Lot 3 prior to filing of the final plat, and the access location shall be shown on the plat.

2. Public utility easements shall be shown along the powerlines on the property. Easements location and width shall be approved by the appropriate utility and governing body. In addition to showing the location of the utility easement, the following statement shall be shown on the face of the plat:

> "The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, w water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilitates, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."

3. The subdivider shall grant a 60-foot access easement along the existing gravel road that provides access to Lots 1, 2, and the lot to the north of the property.

4. The subdivision shall be annexed into the appropriate fire district or shall demonstrate that fire protection will be provided prior to filing of the summary plat.

5. The driveway plans for emergency vehicle access and turnarounds shall be approved by the appropriate Fire District prior to filing of the summary plat. If actual plans have not been drawn by the time the plat is filed, then a typical plan shall be approved.

6. The following statement shall appear on the face of the plat:

> The No Improvement Zones (NIZ) shown on the plat shall be held in perpetuity and shall run with the land. Within these zones shall not take place any construction, excavation, or other alteration of the natural landscape or vegetation. (See also agreement and covenants.)

7. The covenants shall be approved by the Office of Community Development, the Rural Planning Office, the Montana Department of Fish, Wildlife, & Parks Region One, and Dr. Chris Servheen, Grizzly Coordinator of the U.S. Fish & Wildlife Service.

8. The developer shall enter into an agreement with the governing body to address natural resource and wildlife habitat protection, to be approved by the governing body.

The summary plat shall also be subject to the amended agreement and covenants entered into between the Board of County Commissioners and the development.

The motion carried on a vote of 3-0.

CONSIDERATION OF: HARMON ADDITION (SUMMARY PLAT)

Ron Ewart, Planner at the Office Community Development, explained that Harmon Addition is a 2-lot division of a 7.88-acre parcel of land located in Section 12, T14N, R23W, on Petty Creek Road just south of I-90, the Clark Fork River, and the Montana Rail Link about 27 miles west of Missoula near Alberton. The property is unzoned, and the Comprehensive Plan designates the area as suburban residential. The subject parcel is approximately 300 feet by 1300 feet, oriented east to west, with Petty Creek Road along the west side and Southside Road adjacent to the longer, north edge of the property. A mobile home exists on proposed Lot 1; the size of the lot will be 4.35 acres. Lot 2, toward the east, is to be 3.53 acres in size and a house is planned for construction on that lot. The majority of the property is horse pasture with less than 5 per cent slope. Both lots will access Southside Road, a 24-foot gravel road within a 60-foot Missoula County Road easement.
The Office of Community Development staff recommended that the summary plat of Harmon Addition be approved, subject to compliance with the following conditions:

1. A public utility easement shall be shown along the south line of the property, and the adjoining road easements shall be labeled as public utility easements. Easements location shall be approved by the appropriate utility and governing body and shall not be less than 20 feet in width unless approved by the appropriate utility and the governing body. In addition to showing the location of the utility easement on the plat, the following statement shall be shown on the summary plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever." *Article 3-5 and 3-6, Missoula County Subdivision Regulations.*

Petty Creek Road is paved south to the intersection with Southside Road. Southside Road is a graveled 24-foot County road. The developer requests a variance to Article 3-2 (10)(K)(2)(A) of the Missoula County Subdivision Regulations, which states that where primary access to the subdivision is to be provided by a road or roads not contained within the boundaries of the subdivision, access to the nearest publicly maintained road shall be paved if the distance is less than 500 feet from the subdivision.

The following information was received regarding this request:

Harmon Addition will only add one family to the existing road system. The new lot will access from Southside Road as does the existing home. Southside Road is a gravel road built to County standards and serves approximately 10 homes to the east. The additional impact to this road would not warrant the cost of paving this portion of the road. If granted this variance, the owners would be willing to give up their right to protest any future paving RSID's. No harm will come to the public if one or more home is added to this road because of the minimal increase in traffic and dust. This area is outside of the non-attainment area.

FEBRUARY 9, 1994 (CONT.)

Article 3-2 (G) states that the governing body may grant a variance to the paving requirement, if in their opinion it appears warranted. The County Surveyor agrees this request should be approved if an RSID waiver statement is placed on the plat. This staff report recommends approval of the variance request with the following condition included:

2. The following shall appear on the face of the plat and in each article of conveyance:

> "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owners to any future RSID for paving or other improvements to Southside Road and Petty Creek Road." *Comments of the County Surveyor.*

Fern Hart asked what the difference was between an easement and a statement?

Ron Ewart explained there is a power line along the south line, but there is no easement shown for the power line. There may or may not be an easement, but it is up to the developer whether or not it is on the plat. If it is not, then one has to be recorded. Also, the new subdivision regulations require the statement to be shown on plats. This condition requires that the developer show the easement and the statement on the plat. It is a public utility easement.

Tim Wolfe, Territorial Engineering & Surveying, was present to answer questions.

Barbara Evans warned the buyer and present owner, who will each reside on a parcel, about the road and it's condition.

The buyer and owner of the property acknowledged that they were familiar with the conditions in this area.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the summary plat of Harmon Addition and the request for a variance to Article 3-2 (10)(K)(2)(A) of the Missoula County Subdivision Regulations, based on the findings of fact in the staff report and subject to the following conditions:

1. A public utility easement shall be shown along the south line of the property, and the adjoining road easements shall be labeled as public utility easements. Easements location shall be approved by the appropriate utility and governing body and shall not be less than 20 feet in width unless approved by the appropriate utility and the governing body. In addition to showing the location of the utility easement on the plat, the following statement shall be shown on the summary plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."

2. The following shall appear on the face of the plat and in each article of conveyance:

> "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owners to any future RSID for paving or other improvements to Southside Road and Petty Creek Road, including, but not limited to participation in a cooperative dust abatement program.

The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 2:25 p.m.

FEBRUARY 10, 1994

The Board of County Commissioners met in regular session; all three members were present. In the late afternoon and evening, Ann Mary Dussault and Fern Hart attended a MAEDC Retreat held at the Boone and Crockett Club.

Monthly Report

Chair Ann Mary Dussault examined, approved and ordered filed the Monthly Report of the Clerk of the District Court, Kathleen Breuer, showing items of fees and other collections made in Missoula County for month ending January 20, 1994.

FEBRUARY 10, 1994 (CONT.)

DAILY ADMINISTRATIVE MEETING

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

Acceptance of Workers' Compensation Program Bonds Agreement

Chair Hart signed acceptance of the offer by D.A. Davidson & Co. to purchase from the County $345,000 Missoula County, Workers' Compensation Program Bonds (Tax Supported) Series 1994B, as per the items and terms set forth. The document was returned to John DeVore, Administrative Officer, for further handling.

Construction Easement

The Board of County Commissioners signed a Construction Easement between Missoula County and R. E. Wirth for the purpose of a construction easement across real property for the purpose of constructing sanitary sewer improvements on a strip of land over, under and across a portion of the property described as Lot 16 Massey McCullough, as per the conditions set forth, for the sum of One Dollar ($1.00). The Easement was returned to Jesse Sattley, RSID Coordinator, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

FEBRUARY 11, 1994

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

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

FEBRUARY 14, 1994

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Ann Mary Dussault left in the afternoon for Billings to attend the MACo Midwinter Meeting and the DES Conference through Wednesday, February 16th.

DAILY ADMINISTRATIVE MEETING

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

Plat, Agreement and Subdivision Improvements Agreement

The Board of County Commissioners signed the Plat for Hansen Addition No. 2, a subdivision of Hansen Addition located in the SW 1/4 of Section 20, T13N, R19W, PMM, Missoula County, a total area of 3.18 acres, with the owners/developers of record being Ronald and Doreen Hansen, Debra Langley and Raymond P. Twite. Cash in lieu of park dedication was received by the County Treasurer the amount of $3,333.33.
The Commissioners signed an Agreement accepting the redesign of Hansen Addition No. 2 which allows the reconfiguration of Lots 6 and 7. The roadway at the end of the cul-de-sac will not be opened to through traffic without further review by the Commissioners and will only be opened for the purpose of providing a loop connection to further residential development. Also signed was a Subdivision Improvements Agreement and Guarantee for improvements which remain to be completed in Hansen Addition No. 2 between Missoula County and Raymond P. Twite for paving of road within the subdivision at an estimated cost of $51,226.23; the improvements shall be completed no later than September 1, 1995, and is guaranteed by a trust indenture signed on January 25, 1994, encumbering Lots 8 and 9 in Hansen Addition No. 2, in favor of Missoula County.

Deed Restriction Agreements and Subordinate Deeds of Trust

Chair Fern Hart signed Deed Restriction Agreements and Subordinate Deeds of Trust, between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down-payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

1) John M. and Lisa D. Brown in the amount of $18,870.00, for the property located at 304 Ridgeway in Lolo, dated February 2, 1994;

FEBRUARY 14, 1994 (CONT.)

2) Philip J. Clark, in the amount of $19,965.00, for the property located at 2020 Oriole Drive - El Mar Estates, Missoula, dated February 3, 1994;

3) Theodore J. Wicklund Jr. and Jamie S. Wicklund in the amount of $18,748.00, for the property located at 7910 Zaugg Drive, Bonner, dated February 4, 1994; and

4) Terri Lee Rider in the amount of $20,000, for the property located at 2128 Trail, Missoula, dated February 3, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Lease Agreement

The Board of County Commissioners signed a Lease Agreement between Missoula County and the American Legion Swan Valley Post 63 for a lease on an area located directly north of the Condon Airfield and immediately east of Montana State Highway #83 in an existing cleared area in the SE 1/4, SW 1/4, Section 25, T21N, R17W, for the purpose of operating and maintaining a community park including a baseball field, as per the terms and conditions set forth, for a term of five (5) years and a rent payment of $1.00.

Contract for Sale of Tax Deed Property & Related Documents

The Board of County Commissioners signed a Contract for Sale, a Settlement Statement, Warranty Deed and other related documents between Missoula County and Thomas Joseph and Kathleen Marie Garland for the purchase of property taken by tax deed described as Lot 6, Block 3, Mountain Shadows No. 1, located in the City of Missoula, for the sum of $17,500, payable in five (5) annual installments as per the schedule set forth. The documents were returned to Insured Titles, Inc. for further handling.

Other items included:

a) the Board authorized US West to proceed with the job of replacing the phone cable in the West View Subdivision and placement of cabinet as requested, as per the exceptions and/or considerations set forth. The letter was returned to Horace Brown, County Surveyor, for further handling; and

b) the Commissioners made the following Board appointments:

1) Marlys Albert to a five-year term on the Airport Authority through December 31, 1998; and
2) Frances Alves as an alternate member on the Weed Control Board for a three-year term through December 31, 1996.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

FEBRUARY 15, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Easement

Chair Hart signed an Easement to grant US West Communications, Inc., a perpetual easement to construct, reconstruct, operate, maintain and remove such telecommunications facilities as required upon, over, under and across the following described land: the North Westerly 15 feet of property as shown on COS #3858, (sheet 4 of 6) lying South Easterly of the South Easterly property line of Block 1, Momont Industrial Park Phase 2 located in the NW 1/4, Section 1, T13N, R20W, PMM, and the SW1/4, Section 36, T14N, R20W, PMM, (the placement of fiber optic across Missoula County Airport Industrial Park Phase 2 property). The cable will be buried with a minimum of three feet cover and the disturbed area will be restored to the original or better condition. The Easement was returned to DuBray Land Services, Inc. for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

FEBRUARY 16, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present in the forenoon. Fern Hart left at noon for Billings to attend the MACo Midwinter Conference through Friday, February 18th.

Audit List

Commissioners Hart and Evans signed the Audit List, dated February 16, 1994, pages 2-32, with a grand total of $95,472.00. The Audit List was returned to the Accounting Department.

PUBLIC MEETING

The Public Meeting was canceled due to the MACo convention in Billings which Fern Hart and Ann Mary Dussault attended.

FEBRUARY 17, 1994

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

Indemnity Bond

Acting Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Dawnal Imes as principal for warrant #9127, dated January 8, 1993, issued on the Missoula Area Education Cooperative Claims Fund in the amount of $46.20 now unable to be found.

Indemnity Bond

Acting Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Dawnal Imes as principal for warrant #9094, dated January 8, 1993, issued on the Missoula Area Education Cooperative Payroll Fund in the amount of $74.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-019

Acting Chairman Evans signed Resolution No. 94-019, a resolution relating to $345,000 Workers' Compensation Bonds, Series 1994B (Tax-Supported); authorizing the issuance, awarding the sale, determining the form and details, authorizing the execution and delivery and levying taxes for the payment thereof. The Resolution was returned to John DeVore, Administrative Officer, for further handling.

Resolution No. 94-020

The Board of County Commissioners signed Resolution No. 94-020, a resolution to accept and approve the petition of Jeffrey M. Langan for inclusion in Rural Special Improvement District No. 8453 for participation and connection to the Linda Vista/Lower Miller Creek area sewer interceptor construction at the assessment in the RSID with nine units now, with an option to add an additional three units at a later date to be determined, as per the terms and conditions set forth. The Resolution was returned to Jesse Sattley, RSID Coordinator, for further handling.

Resolution No. 94-021

The Board of County Commissioners signed Resolution No. 94-021, a Resolution giving the electors in Lolo School District No. 7 and Woodman School District No. 18 the opportunity to vote at the school election on April 5, 1994, on the question of whether or not a community council should be established to advise the County Commissioners on Lolo area issues. The Commissioners also signed approval of the By-Laws of the Lolo Community Council which were adopted by the interim members of the Council on February 15, 1994. The Resolution and Bylaws were returned to John DeVore, Administrative Officer, for further handling.

Interlocal Agreement

The Board of County Commissioners signed an Interlocal Agreement between Missoula County and the City of Missoula for the purpose of continuing the provision of certain law enforcement and emergency services, as per the items and terms set forth, for a period of five years through June 30, 1998, at which time the Agreement shall be automatically renewed for five years and every five years thereafter unless the parties wish to renegotiate or terminate the Agreement. The Agreement was forwarded to the City for signatures.

FEBRUARY 17, 1994 (CONT.)

Other items included:

1) the Commissioners approved a 45-day filing extension for Bitterroot Meadows Phase III, in accordance with the recommendation of the Community Development staff, making the new filing deadline April 9, 1994;

2) the Commissioners approved a 180-day filing extension for King Ranch Phase I, in accordance with the recommendation of the Community Development staff, making the new filing deadline July 14, 1994; and

3) the Commissioners approved the application for CTEP funds for a pedestrian-bikeway facility as an extension of the facility that is being constructed by C.M.A.Q. funds from Reserve to Clements. The application was returned to Horace Brown, County Surveyor, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

FEBRUARY 18, 1994

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

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

FEBRUARY 21, 1994

The Missoula County Courthouse was closed for the Washington-Lincoln Day holiday.

FEBRUARY 22, 1994

The Board of County Commissioners met in regular session; all three members were present. In the evening, Ann Mary Dussault attended a meeting of the Seeley Lake Refuse Board in Seeley Lake.

DAILY ADMINISTRATIVE MEETING

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

Quitclaim Deed

The Board of County Commissioners signed a Quitclaim Deed from Missoula County to Vivian E. Erickson % George J. and Gloria A. Kappel for School Addition--Lot 4, Block 11, SUID #0578208. This is a correction Quitclaim Deed pertaining to tax deed recorded in Book 403 Page 2386, correcting names mistakenly recorded on tax deed. The Quitclaim Deed was returned to the Clerk and Recorder's Office.

Deed Restriction Agreements and Subordinate Deeds of Trust

Chair Hart signed Deed Restriction Agreements and Subordinate Deeds of Trust, between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down-payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

1) Elizabeth T. Schulte, in the amount of $20,000, for the property located at 2340 55th Street #23, Missoula, dated February 16, 1994; and
2) Scott A. and Mary Ellen Newell, in the amount of $19,154.00, for the property located at 7950 Indreland Road, Missoula, dated January 28, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

FEBRUARY 22, 1994 (CONT.)

Contract

The Board of County Commissioners signed a FFY 1994 Section 8 Contract (#94-50-0021) between the Office of Community Development and the State of Montana, Department of Transportation, Transportation Planning Division for the purpose of providing federal assistance to evaluate, select and monitor technical study projects proposed by local metropolitan planning organizations or public bodies and agencies and transportation planning and technical studies projects from October 1, 1993, to September 30, 1994, for the amount as indicated the Attachment to the Contract. The Contract was returned to Mike Kress in the Office of Community Development for further handling.

Other items included:

the Commissioners appointed Sam Yewusiak as the part-time resident regular member on the Seeley Lake Refuse Disposal District Board for a three-year term through December 31, 1996.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

FEBRUARY 23, 1994

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

Resolution No. 94-022

The Board of County Commissioners signed Resolution No. 94-022, a Budget Amendment for FY'94 for the Health Department, including the following expenditure and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Adopted	Change Budget	Amended
Perm Salaries	$42,858	$ 4,000	$46,858
Fringe	$10,753	$ 700	$11,453
Meals, Lodge, Inc.	$ 0	$ 300	$ 300
Mileage - County	$ 1,000	$ 500	$ 1,500
Mileage - Private	$ 0	$ 500	$ 500
	$54,611	$ 6,000	$60,611
Description of Revenue		**Revenue**	
TB Services	$ 4,000	$ 6,000	$10,000

DHES Contract Modification No. 340270-01. Federal Catalog No. 93.116.

Resolution No. 94-023

The Board of County Commissioners signed Resolution No. 94-023, a Budget Amendment for FY'94 for the Health Department, including the following expenditure and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Adopted	Change Budget	Amended
Perm Salaries	$19,602	$ 5,064	$24,666
Fringe	$ 4,918	$ 1,240	$ 6,158
Meals, Lodge, Inc.	$ 0	$ 300	$ 300
Mileage - Private	$ 254	$ 100	$ 354
	$24,774	$ 6,704	$31,478
Description of Revenue		**Revenue**	
Follow Me	$26,000	$ 6,704	$32,704

DHES Contract Modification No. 340193-01. Federal Catalog No. 93.994.

Closing Documents - Workers' Compensation Bonds

Chair Hart signed the closing documents for $345,000 Workers' Compensation Bonds, Series 1994B (Tax-Supported), Missoula County, Montana, consisting of signature page to the Arbitrage Certificate; County Clerk and Recorder/Treasurer's Certificate and Receipt; affidavit as to signatures of County officers; Officers' Certificate; Request and Authorization; and Form 8038-G. The documents were returned to Mae Nan Ellingson at Dorsey & Whitney.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

RECOGNITION OF: NATIONAL RECOGNITION OF MISSOULA RSVP (RETIRED SENIOR VOLUNTEER PROGRAM)

Fern Hart explained that recently, Missoula's RSVP Volunteer Clearinghouse was selected as a national model for rural elderly volunteer programs. RSVP was recognized for its use of marketing approaches, and its flexibility to help potential volunteers of all ages. Missoula's RSVP Volunteer Clearinghouse was among ten chosen for recognition from across the United States by the University of Missouri's National Resource Center for the Rural Elderly. Director Jim Harris, Helen Pohlman, Volunteer Services Specialist, and Rob Lubke, Program Specialist, have been outstanding in their efforts to enable people of all ages to contribute to their community through important volunteer service.

Ann Mary Dussault presented a Missoula County Certificate of Appreciation to the RSVP Program in recognition of dedicated service to Missoula County as citizens.

Jim Harris thanked the Commissioners on behalf of hundreds of volunteers in the RSVP Clearinghouse which made the program possible.

HEARING: HIGHWAY 83 BEAUTIFICATION PROJECT (SEELEY LAKE)

George Humphrey, a participant in the Seeley Lake Highway 83 beautification project since last March, said one of the projects discussed was a beautification project for Highway 83. He said they submitted a proposal to Horace Brown under the Community Transportation Enhancement Program (CTEP) for enacting this project. Under the CTEP program, there are specified projects that are eligible. This project covers two of these: 1) scenic or historic highway programs and landscaping and 2) other scenic beautification. The CTEP program encourages community coordination and public involvement. There are two authorities for the proposed project: the Seeley Lake Comprehensive Plan amendment adopted in 1989 and the Economic Diversification Action Plan for the Seeley/Swan area adopted October 14th in Lake County. The proposal follows the intent of the Comp Plan in that beautification of the highway was set forth as one of the objectives for the community to carry out. Under the Economic Diversification Action Plan, there were several public meetings and ultimately, the plan was "hammered" out. He described the project as being from mile marker 12.5 to mile marker 13 on Highway 83. This project is intended to be the first of several phases to get the community started on beautifying the highway. They intend to carry the project through the entire town. At the entrance, there will be pylons and large signage which will create a "charm" effect. On either side, there will be fencing for 3,000 feet and entry gates. The project was reviewed by Jim Weaver, of the Department of Transportation. Jim Weaver will work with them on the placement of this project. The project will also have an unmanned visitor center which will contain enlarged photos showing the history of Seeley Lake. There will be a landscaped corridor on the east side of the highway 250 feet deep. The area is currently barren and was the original gravel pit and was used as a dumping site for sawdust products from the mill. The golf course has executed an easement for the purposes of landscaping and they have agreed to maintain the project area for five years. The budget for this phase of the project is $100,000. It will be designed by a professional architect and will follow the Department of Transportation's guidelines.

Horace Brown, County Surveyor, explained that the Double Arrow Ranch will provide the match for the project of $20,000.

Fern Hart asked how the other side of Highway 83 will fit in with this project as the east side of the highway will be landscaped.

Ed Bezanson said the other side will have a fence but will not have any landscaping. This is private land and is used for grazing.

Michael Sehestedt, Deputy County Attorney, suggested language for a motion.

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Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the Highway 83 beautification project in the application documents and to accept the landscape easement and maintenance agreement by the Double Arrow Ranch. The motion carried on a vote of 3-0.

The Commissioners expressed their thanks for all of the hard work put into this project.

Maintenance Agreement

The Board of County Commissioners signed a Maintenance Agreement for Landscaping Easement between the Double Arrow Golf Resort, Inc., and Missoula County, to maintain the landscaped easement as set forth in the agreement, for a period of five years.

HEARING: COMPREHENSIVE PLAN COMPLIANCE APPEAL - ROBERT MOSELEY (RESIDENTIAL ACCESSORY STRUCTURE ON LOT 2, MULHAUSER ACRES)

Bud Hettich, Office of Community Development, explained that the purpose of this hearing is to hear an appeal of the decision by the County Zoning Officer to deny Robert F. Moseley of 240 Daly Ave., Missoula, zoning compliance to construct a 30' X 40' garage storage structure with no primary (residential) structure, on Lot 2, Mulhauser Acres. Mulhauser Acres is an unzoned area designated by the Lolo Comprehensive Plan as R2 Residential (2 units per acre).

He said he was never informed as to the ownership status of the parcel. He said he researched the ownership in the Assessor's Office which revealed that the property was owned by James Rose. The applicant should supply an explanation to the question of ownership.

Mulhauser Acres is a seven lot subdivision approximately one and a half (1 1/2) miles north of Lolo along the west side of Highway 93. The intended use was found not to be in compliance with the Comprehensive Plan pursuant to Resolutions 83-99 and 85-082.

The subject property as designated on the 1978 Lolo Comprehensive Plan, recommends residential development at a density of 2 dwelling units per acre. The Planning Director concluded that the above intended use was not in compliance with the Comprehensive Plan or the provisions of the two resolutions adopted to assist in its application to building permits.

He said the applicant stated in a letter that: "It is my understanding that sanitation restrictions exist which permanently preclude the building of any type of residence on the premises,...". He said Doug Kikkert of the Health Department informed him there was never an evaluation done to determine if a septic system would or would not work.

There are several reasons that the staff does not favor approving the applicant's request: 1) The structure by itself will appear commercial and out of place with the existing uses in the area; 2) if and when the applicant sells the property, it would be doubtful that a new owner would have a similar use for the structure than the applicant now proposes; 3) the area is somewhat isolated which would allow vandalism easier; and 4) two neighbors have stated all of the above concerns and strongly object to the applicant's plans for the property.

Resolution 83-99 and Resolution 85-082 amending the former set forth several criteria for determining whether a proposed use requiring a building permit is in compliance with the Lolo Comprehensive Plan. Clearly the proposed garage storage structure is not in compliance with the recommended residential use designated by the Plan. In addition, there is no problem in interpreting the "Plan" because of the scale of the map.

Resolution 83-99 states that if the proposed use is different from that of the land use plan but in compliance with the goals, objectives and policies of the plan, it can be found to be in compliance. The applicant's proposed use is in conflict with the Lolo Comprehensive Plan.

Resolution 85-082 allows proposed uses to be considered to be in compliance with the Lolo Comprehensive Plan if 50% or more of the land uses within 300 feet of the property in question are compatible with the proposed land use. In this case, land use within 300 feet of the applicant's parcel are more than 50% residential.

The staff recommended that the request by Robert F. Moseley to construct a garage storage structure be found not to comply with the Lolo Comprehensive Plan and be denied pursuant to Resolutions 83-99 and 85-082.

He said three residents have objected to the project. The lot was big enough to provide separation from the septic system to the existing well on the neighbor's property. The Lolo Comp Plan discusses having specific locations for commercial uses and specific locations for residential uses. Also, the Lolo residents spent a great deal of time on the Comp Plan to get the best developments in their area.

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The hearing was opened to public comment.

Robert Moseley said Mr. Rose is the owner of the property in question. The property been for sale for 10 years. It is not suitable for a house. While there has been no ruling on the question of having a septic system on the property, it has been understood this is not possible due to the level of the water table. The land is unsalable for any other purpose whatsoever; it is too small for farm use or residential. The proposed use is not commercial. He proposed a wooden structure which would blend with the surrounding uses.

Mira Schultz said her home is above the area in question. They object to the proposal because they don't want to look down on the garage. Mr. Moseley can rent a storage space in Lolo. She expressed concern if the variance is granted, future owners of the garage may use it as commercial. This property is not unsalable land; Mr. Rose could sell it to the adjacent landowner. The proposal does not fit into the residential nature of the neighborhood.

Larry Olsen, adjacent property owner, expressed concern that his well not be affected by what is done on the adjacent property. He said the property description is based on a 1960 survey which was before the highway was built as a four lane road. The lot in question is considerably smaller now since the four lane road was built. One hundred and sixty feet of this property is now highway. He wondered if the garage would fit? He said he is not opposed to the property being used for something other than residential. The size is quite prohibitive. He wondered if anyone would want to store anything of any value so close to the highway? He said in the past, he has had a lot of problems from people stealing, etc. The measurements of the lot are 26.5 wide on the narrow end and 121 feet on the longer end and 212 feet long. The sewer would present quite a bit of problems.

Barbara Evans asked about the surrounding area and the size of the lots located in Mulhauser Acres.

Bud Hettich said the lot in question is the smallest lot in the entire area. The proposed five lot subdivision is proposing one acre lots. He agreed with the measurements Larry Olsen gave.

Larry Olsen said the measurements were made from the existing fence on the property.

Barbara Evans said she hated to deny a person's right to use their piece of ground, but the size of the lot is prohibitive and would prevent the location of a home on the property. She asked if Mr. Moseley would ever want to put a home on the property?

Robert Moseley said no.

Fern Hart asked Mr. Moseley what he intended to put in the proposed garage?

Robert Moseley said a pickup with a camper, a trailer, a sports car during the winter, a canoe, as well as other possessions. He said he has a rental unit in Lolo, but it is too small. He said he wanted a place with equity instead of paying rent.

Barbara Evans said Bud Hettich supplied some conditions if the Commissioners wish to approve the appeal as follows:

1.Limit approval to Mr. Moseley's request for Lot 2, Mulhauser Acres and to the size requested;

2.Limit the storage to Mr. Moseley's own personal items which shall be stored inside the garage;

3.Require that the garage be placed in a location that will not interfere with the placement of a dwelling and septic system at a later date; and

4.Require that the garage be constructed of material compatible with adjacent residential structures in regard to siding and roofing.

She wondered how the County could require and enforce Condition #2 which limits the storage to Mr. Moseley's own personal items? How can the proposed garage be called commercial if Mr. Moseley will not be making money from the use of it?

Robert Moseley expressed concern relative to Condition #3 which required him to position the garage differently. He commented that he didn't have a problem repositioning the garage; however, he wondered if there would be room for a house?

Robert Moseley said the size of the garage is 30' x 40' with two 10 foot doors. The height will be 15 feet.

Horace Brown said if the Larry Olsen's measurements were correct, the lot would only be half an acre. No dwelling could be placed on the property without sewer.

Barbara Evans asked Bud Hettich to explain how he concluded the use would be commercial if the proposed garage wasn't going to bring in any income.

Bud Hettich said he was faced with a decision to put a non-residential structure on the property which is clearly identified in the Comp Plan as a residential designation. The primary use of this area should be residential; a garage would be an accessory to the primary use. In this case, the accessory use becomes the primary use. There was a legal opinion which indicated to have an accessory use, there had to be a primary use. The garage is very large in size. There are many problems associated with this large structure. People will want to use the structure as a machine shop or auto shop. He said he has had to remind people that the permit was issued for a personal accessory structure. It becomes difficult to sell with a structure so large with restrictions.

Ann Mary Dussault said the original size of the lot was one acre in size. After creation of the lot, the highway right-of-way has intruded upon the lot. She wondered, would the landowner have been compensated? Would the landowner have been compensated with the understanding this had been a residential property at the time the taking had occurred?

Michael Sehestedt, Deputy County Attorney, said there are two kinds of damages: 1) compensation for the ground actually taken, and 2) compensation for severance damages to the remainder. When the Highway Department takes part of a property, the damages are calculated and payment is made. The original owner of the lot should have been compensated for both the property taken and the loss of any use of the remainder for a residential building site.

Fern Hart asked if the subdivision was platted and accepted before the highway went in?

Bud Hettich said yes. He asked about the ownership of the property and who would get the benefit of the approval of the request--the owner or the applicant?

Michael Sehestedt said the question is whether or not the requested building permit is in compliance with the Comp Plan. The staff has determined that this request is not in compliance with the Comp Plan; this decision has been appealed. The Commissioners will decide one way or the other to dispose of the question concerning Comp Plan compliance of this building permit. The ownership is not a factor in the Board's decision.

Barbara Evans said in the past, when the Board has allowed for approval of requests on this type of appeal, conditions have been placed on the approval. These conditions have not been honored. If this request is approved, what power does the Board have to enforce these requirements?

Michael Sehestedt said the County would have the ability to enforce the conditions. He said what happens in the real world is time passes, the property passes into other hands and the question becomes whether or not the subsequent purchaser was fairly on notice of the restrictions; enforcement becomes more difficult as time passes. One mechanism would be to place conditions in the form of deed restrictions attached to the deed and would flow with the land. Being of record, these conditions would provide constructive notice to any subsequent purchaser. He said realtors are always interested in selling property, but are not real happy about finding restrictions on property. He said Mr. Moseley is an honorable man and would probably use the property as proposed for his entire ownership. However, as the property is sold, it becomes more difficult to enforce the restrictions. Tracking is also difficult. There is not the staff available to monitor some of these permits effectively.

Barbara Evans asked if Mr. Moseley intended to landscape around the garage and pave the driveway?

Robert Moseley said no, there is a fence around the property. He may clean the weeds off, however.

Bud Hettich said there is an agreement between the County and the City within the four and a half mile jurisdiction that all uses other than residential are required to pave interior access and interior roads and parking spaces. This is another dilemma. He said they can't call this residential, commercial or accessory. To get out of paving, Mr. Moseley would have to apply to the County Board of Adjustments for a variance request.

Michael Sehestedt explained that the uniform building code applies to the 4 1/2 mile jurisdictional line which requires that a building permit be obtained. The building must be consistent with all of the standards of the uniform building code and any other applicable ordinances. The Montana Supreme Court in Flathead versus Little said that the Comp Plan is another applicable ordinance as referred to in the building code. Before a building permit is issued, a determination must be made as to whether or not the structure is consistent with the Comp Plan. The County adopted the resolutions pertaining to this application; the second resolution amends the first. This created a procedure for doing Comp Plan determinations. The determinations are made by the

staff. If the applicant's request is denied, they can take their appeal to the Board of County Commissioners. If the denial is upheld, the applicant can take the matter to the District Court.

Ann Mary Dussault moved and Barbara Evans seconded the motion to deny the appeal by Robert F. Moseley of 240 Daly Ave., Missoula, for a zoning compliance request to construct a 30' X 40' garage storage structure with no primary (residential) structure, on Lot 2, Mulhauser Acres, based on the following findings:

1. The Comp Plan as the governing document, is clear in its designation of the property as residential.

2. The Comp Plan actually designates this area as potential development of two units per acre which would imply that at some future date with appropriate infrastructure, a half acre could be developed with residential housing on it.

3. The Comp Plan does not seem to instruct in any way that the Commissioners can change the use of a piece of property without some direction from the Plan. None could be found to allow a structure which is not residential or commercial with no way to condition its use in the future beyond the conditions.

The motion carried on a vote of 3-0.

Barbara Evans stated she hated to say no to Mr. Moseley, but agreed that at some point there will be sewering available. It is vitally important that the land be protected for future housing. Promises have been and will continue to be broken and not honored which is distressing to the neighbors and to the Commissioners.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER - KREIS - PARCEL DESCRIBED IN BOOK 42, PAGE 152, T15N, R22W, SECTION 18

Kathy Smith, Paralegal for the County Attorney's Office, explained that Robert D. and Margaret E. Kreis submitted a request for two family transfer exemptions for the parcel described in Book 42, Page 152, T15N, R22W, Section 18. An extension to this property is also located in Section 7. The parcel is a 500+- acre parcel located in Ninemile. The applicants propose to create two 20 acre tracts around two already existing homes for their sons, Richard J. Kreis and Michael W. Kreis.

The history of the parcel is as follows: Robert Kreis acquired the parcel in 1964. He created a 20 acre parcel in 1977, another in 1978 and another in 1979. In December, 1980, Robert Kreis used the family transfer exemption creating Tract 1 in Section 7, a 12.77 acre parcel. Tract 1 was transferred to their daughter, Virginia Ann Larson. Ms. Larson then sold Tract 1 in January, 1982, which was then sold again in March, 1982. In November, 1983, Mr. Kreis used the boundary relocation exemption in Section 7. In April, 1993, the Kreis' requested a hearing for two family transfer exemptions to create two 10 acre parcels for their son, Michael, and daughter, Suzie. The son and daughter already resided on the property. At the hearing on April 7, 1993, it was represented to the Commissioners they only wanted one family transfer for their daughter, Suzie, which was granted. The survey has not yet been completed on this transfer, but Steve Inabnit indicated that the Kreis' intend to transfer the parcel to their daughter. If these transfers are approved, this will be the Kreis' third and fourth use of the family transfer exemption, however, all transfers have been to different children. The Kreis' have one remaining child who also resides on the property.

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

The hearing was opened to public comment.

Barbara Evans asked if the 20 acre parcels in Section 7 were sold?

A discussion ensued relative to the location of the various parcels.

Mrs. Kreis said they were sold. All of the children have resided on the property since the late 1970's. Her daughter, Virginia, sold her parcel when she married. The Kreis' have seven children.

Barbara Evans explained that the law requires the Commissioners to determine whether or not a request to split land is an intent to evade the Subdivision and Platting Act. The Commissioners must determine how the applicant plans to do with the property and whether or not the request will result in a subdivision. A goodly share of Missoula County has been split through the Certificate of Survey process which has resulted in no amenities for the residents.

Ann Mary Dussault said the original parcel was 640 acres. A boundary relocation was done which was sold. The Kreis' did a family transfer to their daughter, Virginia, which was traded and then sold. A year ago, the applicants requested a transfer of two 10 acre parcels; only one ten acre parcel was approved to their daughter Suzie.

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Mrs. Kreis said last winter, Suzie needed a place to live, but Steve Inabnit did not have the time to get to their split. She said they did what their lawyer recommended which was to deed Suzie 20 acres; she would have to give 10 of those acres back. To borrow money to buy her home for the property, they had to get this done last fall. For the bank to authorize the loan, there had to be a clear title. When Steve Inabnit completes the surveys, Suzie will only have a ten acre parcel. The other ten acres will return to their ownership.

Colleen Dowdall asked when the 20 acre transfer was given to Suzie?

Mrs. Kreis said in November of 1993. A ten acre split was approved by the Commissioners.

Colleen Dowdall said a 20 acre parcel would have required a survey and use of an exemption to the Subdivision and Platting Act at this time.

Mrs. Kreis said they went along with what the lawyer and Steve Inabnit had recommended.

Fern Hart said this would have been in April of 1993.

Colleen Dowdall said the ten acre transfer was approved, but the survey was never done and was never filed to create the parcel. She said Mr. Inabnit transferred 20 acres to Suzie instead. She wondered how this happened? Could the transfer have been done before the change in the Subdivision and Platting Act in April of 1993?

Barbara Evans if the Commissioners approved a ten acre split, but a 20 acre parcel was created, what happened to the other ten acres? Was another parcel created?

Mrs. Kreis said a 20 acre parcel was originally surveyed by her husband's father several years ago.

Colleen Dowdall said there must be a recording reference for a 20 acre parcel. When they asked for a 10 acre transfer, there would have been a remainder on the parcel because there is a 20 acre description--a family transfer and a remainder.

Ann Mary Dussault said there was a 20 acre tract; Suzie will get 10 acres. She asked what was going to happen to the other 10 acres?

Mrs. Kreis said it would become part of the original acreage in the meadow. She said the tract had been previously surveyed, but this acreage cannot be sold for homes because it is in the floodplain.

A discussion ensued concerning possible transfers to the two remaining Kreis children.

Barbara Evans asked what the Commissioners were allowed to approve under the subdivision law?

Colleen Dowdall stated that the applicants were allowed to do a transfer per child per county if there is no attempt to evade the Subdivision Act.

Ann Mary Dussault wondered what the Kreis' plan was for the other two kids?

Mrs. Kreis said their original plan was to give each of the seven children 10 acres. Patti moved to Six Mile and received the money for the sale of what would have been her parcel.

Ann Mary Dussault said she had no problem with estate planning. However, she would have rather seen it all at once in order to get the big picture.

Colleen Dowdall wondered if the Kreis' were doing the family transfers one at a time for tax purposes and the expense of the surveys.

Mrs. Kreis explained where each of the children either have property or will be gifted property. After the proposed two family transfers, approximately 500 acres will be left. She said the children plan to live on the property for as long as they can find work in the area. If the children did leave, the property would not be sold.

Fern Hart expressed concern that the children would sell the property; this could become a subdivision in the future.

Mrs. Kreis' daughter-in-law explained that this is a close-knit family who is used to living together. She said when she first married into the family, it was understood that each of the children would be able to choose their own piece of land. With the new subdivision laws, they worried the family members would not receive their

individual pieces of land. When Bob and Margaret pass on, the family will either split up the land or own it together--but they will not sell it. The property will go on in the family. They do not want to cut up their land.

Ann Mary Dussault said this is a fairly large parcel which is being cut into what looks like a checkerboard ownership even though it is in family ownership. She said the final parcel will be a funny configuration.

Fern Hart said once the survey has been drawn and is of record, it is a salable object and can't be erased. Much land is left to be divided among future family members. She said the Commissioners do not have a solution to this problem which is why they have agonized over the issue.

Barbara Evans moved and Ann Mary Dussault seconded the motion to grant approval of the request by Robert D. and Margaret E. Kreis for two family transfer exemptions for the parcel described in Book 42, Page 152, T15N, R22W, Section 18 to Richard J. Kreis and Michael W. Kreis based on the finding that there is no intent to evade the Montana Platting and Subdivision Act, but is the intent of the applicants to gift this property to their children, as allowed by law. The motion carried on a vote of 2-0 with Fern Hart abstaining from the vote.

Ann Mary Dussault asked the County Attorney's Office to review the previous transfer to Suzie Kreis, in particular, the 20 acre parcel versus the approved 10 acre split. This issue may need to be dealt with because it may not have been the Commissioner's intent to create two 10 acre tracts.

OTHER BUSINESS: EQUESTRIAN PARK

Terry Thompson, resident of the Target Range area, said she was upset about what had been going on with Fort Missoula. She wondered if County residents would be able to vote on the Fort Missoula issue? She wondered how the City got a zoning overlay? She said there was an article in the Missoulian concerning what the County plans to do with the equestrian park in the Fort area. The article indicated that the Commissioners were not going to renew the lease and were going to sell the property. Also, it indicated that the people involved in the equestrian park should speak with Sam Yewusiak at the Fair grounds. She said many people use this area.

Barbara Evans said there is a five acre piece that is a dedicated park. This will remain a park for certain.

Terry Thompson said the equestrian park is used and accessed by children and many others in the area. A person can ride through the neighborhood without having to use a horse trailer. There is a trotting track, a big arena as well as two exercise rings and a dressage ring. Two years ago, the United States Dressage Foundation gave the equestrian group an award for the best footing courses in this part of the country. The park is a national area for shows. The people who use the area have done a great job maintaining it.

She wondered why the equestrian part would be up for sale, but not the baseball part? The only area the residents are able to use is the equestrian park. She asked about the City zoning overlay?

Colleen Dowdall said the overlay district was proposed and worked on by a citizen committee made up of Target Range homeowners. This was part of the project to be involved with submitting the Comp Plan last fall. The Comp Plan was adopted last December when the area was annexed. There were public hearings before the Planning Board and the City Council that considered the Historic Overlay and also hearings were held on the County's area of jurisdiction.

Terry Thompson said many of the residents were caught off guard.

Fern Hart wondered if Terry was asking how the zoning change was affected in the Fort Missoula area? Divot Development proposed a subdivision and requested to be annexed into the City. They did this the same night they asked for the PUD and change of zoning. Once the City Council accepted the annexation request, Divot Development went ahead with their subdivision. Because the subdivision was annexed into the City, the folks in the County were not a part of this decision. This is a piece of City property.

Colleen Dowdall explained that there was a petition to annex was submitted from Divot Development which was acted upon by the City Council. There was a petition to annex as well as a petition to rezone to PUD; both were acted upon. The subdivision was approved during the same meeting. The County Commissioners had nothing to do with this whole process.

Terry Thompson asked if contiguous properties can request annexation? Can the equestrian park request annexation?

Barbara Evans said the properties have to be adjacent to the City in order to be annexed by the City.

Colleen Dowdall explained that usually a request for annexation occurs to obtain City sewer.

Ann Mary Dussault said in order to have a large kind of project, the developers must have sewer. Developers may petition the City to provide sewer. They are either annexed at the time or they would sign a waiver of protest to annex. Surrounding properties would not have to waive their right to protest.

Terry Thompson asked where this left the County residents relative to the right to vote and the right to a voice about their neighborhood?

Fern Hart said if a neighborhood is in that changing area, the residents cannot dictate to a government they are not governed by.

Terry Thompson asked if the County was her government one day, but the City, the next, could she have a voice then?

Colleen Dowdall said presently she could have a voice by testifying before the City Council, but she wouldn't have a City Council member to represent her.

Barbara Evans said County residents cannot vote on a City issue. Unless a person is a City resident, they cannot vote on a City issue.

Fern Hart said a person cannot control the actions of a government if they don't live in its jurisdiction. She said usually a person cannot stop annexation. There are laws which the City followed to get where they are.

Terry Thompson expressed concern over the whole issue of the equestrian park.

Ann Mary Dussault explained the history of the equestrian Park: when the County entered into the agreement with the equestrian people to lease the land, she said she would have never done this in perpetuity. However, when the Commissioners signed the lease with the American Legion, the Commissioners understood that the lease was done in perpetuity. When the Board entered into the lease with the equestrian park, it was clearly the stated intent of the Board of County Commissioners that it was not in perpetuity. The lease was entered into to allow some use of the land until the future use of the land was determined; this would be better than leaving it in weeds. The equestrian park is not a public use. This is a lease to a private organization for use by their members.

Terry Thompson asked about the use by the American Legion?

Ann Mary Dussault said the American Legion ball fields are contiguous to the Little League fields at Fort Missoula.

Barbara Evans said the lease was not in perpetuity. In nearly every lease the County has entered into, there is an escape clause. However, if the County wanted either the Little League or the American Legion to vacate the land, the County would have to pay for the improvements or they would have to be able to move the equipment.

Terry Thompson wondered why the ball clubs are receiving different treatment than the equestrian park? She said the equestrian park is open to the public. The only reason a non-member couldn't get in would be if they were hauling a trailer and couldn't get into the locked gate. The County required the equestrian park to have a gate along with memberships due to the liability issues. The gate is used only if a person is hauling a trailer. The rest of the park is open to the public and is used all the time by walkers, joggers, etc.

Ann Mary Dussault explained that the Road Department has some land which is used and leased by the Little League. She said the group thinks they own it; the fact of the matter is, they don't. It is County land to be used for its highest and best use. It is a different situation when it is dedicated park land. She said when the Commissioners entered into the lease with the equestrian park, the Board made it abundantly clear that this lease could be terminated at any point. It was never intended that it would be like Fort Missoula. The complex at Fort Missoula is for the public and will never be sold; it is supported by tax dollars. It is not true that once the County signs a lease that it is in perpetuity.

Terry Thompson said hundreds of other people use this area. This area is growing rapidly and needs to be looked at and decide which areas must be set aside. The fair grounds will offer only problems related to driving through Malfunction Junction, the traffic, the parking problems, the pollution problems, etc. The racing people pay for the use of the facility.

Ann Mary Dussault said the equestrian folk ought to purchase property for this use. The County cannot appropriate public property for this use.

Terry Thompson asked why the County appropriated property for the Laotian gardens and the ball parks?

Ann Mary Dussault said this was a decision by the Board of County Commissioners.

FEBRUARY 23, 1994 (CONT.)

Barbara Evans said when she spoke with the Missoulian reporter, she spoke only for herself. The Board did not have a position. In deciding the highest and best use of the land, the property would likely not remain as an equestrian park. She said she had contacted the Fairgrounds and asked them to work with the group because the facility is available to provide for their needs. The County must also look at the fact that there is not enough affordable housing in this community. She said the Board will not make a final decision without taking public comment. This matter hasn't been discussed as a Board. A few years ago, there was a proposal to put housing on this land, but the public was very much against it. The situation has worsened dramatically.

Terry Thompson said she spoke with a member of the Fair Board and a member of the Target Range School Board. She was informed that a significant part of the proposed development by the people of the Lutheran Church was non-taxable use. This was of great concern to the school board. The Fair Board member indicated that the public was always welcome at the Fairgrounds, but it would not work for the equestrian group to show up on a regular basis. When the fair is in process, there are problems due to dust. If the equestrian group were to use the grounds on a regular basis, these problems would be year-round. She thanked the Commissioners for listening.

There being no further business to come before the Board, the Commissioners were in recess at 3:35 p.m.

FEBRUARY 24, 1994

The Board of County Commissioners met in regular session; all three members were present. In the evening, Ann Mary Dussault spoke at the Annual "Scenic 83" Meeting held at the Condon Community Hall.

Audit List

Commissioners Dussault and Hart signed the Audit List, dated February 24, 1994, pages 2-32, with a grand total of $119,472.56. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract with Timber Ridge Consulting, Inc., an independent contractor, for the purpose of successful teaching a maximum of 25 90-minute computer classes a month for Missoula County Personnel, to consist of, but not limited to Basic WordPerfect, Intermediate WordPerfect and Basic MS-Windows, as per the terms set forth, for the period commencing March 8, 1994, through June 30, 1994, for compensation not to exceed $5,000.00.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract with Anne Breum, DDS, an independent contractor, for the purpose of providing dental care to patients referred by PHC staff; assisting in the development of PHC dental program policies and procedures; maintaining patient dental records that are accessible to PHC or its designee for audit; providing PHC with an encounter form of each dental visit provided to PHC patients; and providing PHC with a copy of current licensure as DDS in the State of Montana and a copy of current malpractice coverage, as per the terms set forth, for the period commencing January 1, 1994, through June 30, 1994, for a maximum payment of $11,000.00 at a rate of $100.00 per hour.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract with Paul Larson, University Consultants, an independent contractor, for the purpose of conducting focus groups for the Partnership Health Center, Inc., as per the terms set forth, for the period commencing October 15, 1993, through December 3, 1993, for compensation in the amount of $1,645. The Contract was returned to the Health Department for further signatures and handling.

Other items included:

a) Chair Hart signed an Arbitrage Certificate for the purpose of issuing the Series 1994B Bonds in order to provide funds to establish the County's self-insurance workers' compensation program and to fund the Self-Insurance Fund in the amount of $321,227.50 and to pay the costs associated with the issuance of the Series 1994B Bonds. The Certificate was returned to Mae Nan Ellingson's Office for further handling.

FEBRUARY 24, 1994 (CONT.)

b) Chair Fern Hart signed a Bond and Paying Agent Agency Agreement between the County and TrustCorp of Great Falls, MT to appoint TrustCorp as its sole Registrar and Paying Agent for the registration and disbursement of principal and interest payments for securities of the County to take effect on February 24, 1994, as set forth in the certified copy of the Resolution with a $125.00 annual fee payable semi-annually. The Agreement was returned to Hal Luttschwager, Risk Manager, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

FEBRUARY 25, 1994

The Board of County Commissioners met in regular session; a quorum was present in the forenoon. Fern Hart was in Polson attending a meeting of the Mental Health Board. In the afternoon, Ann Mary Dussault served as a judge at the County Spelling Bee held at the Hellgate Middle School.

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

FEBRUARY 28, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #3, pay date of February 4, 1994, with a total Missoula County Payroll of $465,434.64. The Transmittal Sheet was returned to the Auditor's Office.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #3A, pay date of February 10, 1994, with a total Missoula County Payroll of $15,900.00. The Transmittal Sheet was returned to the Auditor's Office.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #4, pay date of February 18, 1994, with a total Missoula County Payroll of $451,370.50. The Transmittal Sheet was returned to the Auditor's Office.

Budget Transfer

The Board of County Commissioners approved and signed the following Budget Transfer and adopted it as part of the FY'94 budget:

no. 94009, a request from the Sheriff's Department to transfer $3,000 from Jail Personnel to Jail Contracted Services to hire a part-time nurse for FY'94 who would be a regular employee of Missoula County rather than contracting this service.

Resolution No. 94-024

The Board of County Commissioners signed Resolution No. 94-024, a Budget Amendment for FY'94 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

FEBRUARY 28, 1994 (CONT.)

Description of Expenditure	Adopted	Budget	Amended
Temp Salaries	$ 8,700	$ 7,717	$16,417
Fringe	$51,390	$ 2,007	$53,397
Printing	$ 1,000	$ 300	$ 1,300
Books, Res. Mat	$ 500	$ 300	$ 800
	$61,590	$10,324	$71,914
Description of Revenue		Revenue	
MCH Block Grant	$95,000	$10,324	$105,324

DHES Contract Modification No. 240156-01, federal catalog no. 93.994.

Resolution No. 94-025

The Board of County Commissioners signed Resolution No. 94-025, a Budget Amendment for FY'94 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Adopted	Budget	Amended
Meals, Lodging, Inc.	0	$1,000	$1,000
Description of Revenue		Revenue	
Miscellaneous	0	$1,000	$1,000

Funds received from MSU - Montana Area Health Education Center to help defray the costs of having student interns at the Partnership Health Center, Inc.

Resolution No. 94-026

The Board of County Commissioners signed Resolution No. 94-026, a Budget Amendment for FY'94 for Data Processing, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Budget
Capital- Computer Equipment	$6,360
Description of Revenue	Revenue
State Contract - Assessor's	$6,360

Resolution No. 94-027

The Board of County Commissioners signed Resolution No. 94-027, a Budget Amendment for FY'94 for the Sheriff's Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Budget
Jail Overtime	$10,000
Description of Revenue	Revenue
Prisoner Board	$10,000

Supplement to Lease

Chair Hart signed a Supplement to Lease No. Main 213,711 - Clinton, MT from Montana Rail Link which amends the rental rate for said lease to $25.00 per year, effective April 1, 1994, with all other terms and conditions of the lease remaining in full force and effect. The document was returned to Horace Brown, County Surveyor, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 1, 1994

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

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Julie Terzo as principal for warrant #C1180, dated December of 1993, issued on the County General Fund in the amount of $159.60 now unable to be found.

Audit List

Commissioners Dussault and Evans signed the Audit List, dated March 1, 1994, pages 3-32, with a grand total of $113,165.44. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Agreement

The Board of County Commissioners signed an Investment Management Agency Agreement between Missoula County and First Interstate Bank of Commerce, Missoula, Montana, authorizing and empowering the Bank to manage, supervise, and administer the assets in the Investment Fund (the Missoula County Workers' Compensation Fund) in such manner as Agent, in its absolute and uncontrolled discretion, deems advisable, subject in all instances to the terms and conditions of the Agreement.

Other items included:

> the Commissioners approved payment of the NACo dues in the amount of $824.00 (8 months from May to December of 1994), as per the change in the dues billing cycle.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 2, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Ann Mary Dussault was in Marana, Arizona to speak at a Wildland/Urban Interface Training Conference held at the National Advanced Resource Technology Center through Thursday, March 3rd.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 93-028

The Board of County Commissioners signed Resolution No. 94-028, a resolution relating to $835,000 General Obligation Refunding Bonds, Series 1994C; authorizing the issuance, awarding the sale, determining the form and details, authorizing the execution and delivery and levying taxes for the payment thereof for the purpose of reducing a portion of the interest cost on the bonds authorized at the election held November 8, 1988.

Agreement

Chair Hart signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences (DHES) for the purpose of providing partial funding to the County in conducting a preliminary study of the water quality impacts of using liquid deicers as an air pollution control strategy for road sanding material whipped into the air by vehicle traffic, as per the items and terms set forth, for the period from March 2, 1994, through September 30, 1994, with payment from DHES being up to a maximum of $10,000. The Agreement was forwarded to DHES in Helena.

Other items included:

> Fern Hart signed a GB Equipment Lease for the Missoula County Attorney's Office which is subject to a Municipal Lease and Option Agreement for an OKI Fax Machine. The Lease was returned to Mike Sehestedt, Deputy County Attorney, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 2, 1994 (CONT.)

PUBLIC MEETING

The Public Meeting was called to order at 1:40 p.m. by Chair Fern Hart. Also present was Commissioner Barbara Evans. There being no business to come before the Board, the Commissioners were in recess at 1:41 p.m.

MARCH 3, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Notice of Hearing

The Board of County Commissioners signed a Notice of Hearing for the proposal to call for an election on the issuance of General Obligation Bonds for the purpose of acquiring open space, conservation easements, park land, wildlife corridors, sensitive wildlife habitat and development rights throughout Missoula County and to pay the cost associated with issuance of the bonds, setting the hearing for March 8, 1994, at 7:00 p.m.

Extension Letter

The Board of County Commissioners signed a letter to Dick Ainsworth of Professional Consultants, Inc. approving a 120-day filing extension for the Preliminary Plat for Kona East, extending the filing deadline to July 27, 1994.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 4, 1994

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

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

MARCH 7, 1994

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

Monthly Report

Chair Hart examined, approved and ordered filed the Monthly Report for the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ending February 18, 1994.

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Jeanne Glendening as principal for warrant #33639, dated February 10, 1994, issued on the Target Range School Payroll fund in the amount of $1,553.13 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

1) The Commissioners reappointed Will Deschamps, Judy Wing and Tim Sather to three-year terms on the Larchmont Golf Course Board of Directors through March 31, 1997; and

MARCH 7, 1994 (CONT.)

2) The Commissioners appointed Craig Brewington to the Missoula Public Library Board of Trustees to a three-year term through December 31, 1996; and Marie Hebnes was appointed to fill an unexpired term on the Library Board through December 31, 1995.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 8, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Notice of Hearing

The Board of County Commissioners signed a Notice of Hearing on the Number of Study Commissioners to be Proposed to the People as a part of the question as to whether or not a review of the Missoula County government should be conducted, setting the hearing for March 23, 1994, at 1:30 p.m.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

HEARING: PROPOSED OPEN SPACE BOND ISSUE

The hearing was called to order at 7:05 p.m. by Chair Fern Hart. Also present were Commissioners Ann Mary Dussault and Barbara Evans. Michael Sehestedt, Deputy County Attorney, was also in attendance.

Fern Hart explained the procedure for the hearing; 1) John DeVore, Administrative Officer, would give a statement of purpose for the public hearing and for the resolution should the Commissioners adopt it; 2) presentation by the Bob McKelvey for the Committee on Public Lands; 3) a staff report by John DeVore on the County's authority to propose a conservation bond; 4) public comment which was limited to three minutes each. She said that the public testimony portion would close at tonight's meeting, as the Board must make a decision on whether or not to place the bond issue on the County ballot tomorrow; and 5) questions by the Board. The final decision will be made at the Public Meeting on March 9, 1994.

John DeVore, Administrative Officer, explained that the purpose of the meeting was to take testimony on the open space bond issue brought to the Board of County Commissioners by the Citizens for Public Lands. Citizens for Public Lands has requested the Board of County Commissioners to consider placing this issue on the June 7th primary election and have requested the Board to establish the bonding authority at $8 million. The Board of County Commissioners must make a decision on whether or not to place this issue on the June 7th primary election by March 9th to meet the statutory time frames. Tonight's meeting provides the opportunity for any person to be heard on the issue of whether or not such a proposal should be presented to the electors, and if it is decided to present the matter to the electors, what the purpose or purposes should be stated and what amount should be proposed.

Robert McKelvey, representative the committee for Missoula's Public Lands, thanked the Commissioners for their willingness to work with the committee on an extremely tight schedule. There are four general principles which need to be considered into the ballot issue or subsequent actions in order for this bond issue to be successful: 1) a comprehensive open space program must be considered. The statutes define open space in a broad way. Since there is no general understanding of what is meant by open space, he urged that a definition be adopted. He gave a definition of open space as "any land which is provided for park or recreation purposes, conservation of land or other natural resources, historic or scenic purposes, assisting or shaping the character, direction, and timing of community development." This language is broad and enlightened and permits the purchase of any lands which could reasonably be considered. Because the notion of open space is not generally understood, he hoped that this language could be incorporated into the title of the bond issue. 2) It is important there be equitable treatment of all areas in the County. Every area should benefit from the program. For people to be convinced of this, the Commissioners' resolve must be made clear. One way to do this is to prorate the expenditures in a manner commensurate with the assessed valuation of the various areas in the County. Those lands that are most in danger of disappearing need to be dealt with first. 3) An orderly procedure should be developed for assigning priorities in the acquisition including a mechanism for achieving community input. This does not need to be incorporated into the language of the bond issue, but rather, could be handled through some subsequent action by the Commissioners. There are many ways this could be achieved. 4) It is important that there be a recognition of the differing emphasis that are required for open space programs for the urbanizing of the Missoula valley and for the rural areas of the county as well. The emphasis is necessarily different in these two areas. He suggested that there should be two separate advisory boards for the two parts of the County. This is reasonable and consistent with the idea that within the metropolitan area, there be a

creation of a metro park and open space district in the future which would have the authority to improve and to maintain lands as well as long-range planning.

He said there is a demand in excess of $8 million for open space. At the same time, this amount is a good start for a program of this kind. A long term program will require an ongoing source of funding which cannot be achieved through property taxes. This is an emergency "catch up" measure. He referred to the matter of timing of the bond issue. He said there are reasons to wait, but there are reasons to proceed now. He said it was his view that the County should proceed now. The Fort issue proves that it pays to be bold. If the bond issue does not succeed, it will not be because the public does not understand the issues at hand. There are lands valuable to the community which must not be lost; the public understands this.

John DeVore said since the request on the open space bond issue has come before the Board, there have been a lot of questions concerning the County's current debt capacity. He referred to the handouts made available to the public. The first handout provided an analysis of the current debt capacity of Missoula County. The total debt capacity of Missoula County is $30,640,999 which represents 23% of the County's taxable value. The statutes provide for a general obligation debt limit of 11 1/4% of the taxable value which is currently $14,947,445. The statutes also provide a debt limit for the construction of jail facilities which is 12 1/2% of the taxable value or $16,652,717. Collectively, neither the combined limit set for the general obligation debt or jail can exceed the total limit set by statute. Missoula County currently has $2,192,000 in debt which goes against the general obligation limit leaving a balance available of $12,795,445.

The second handout represented a picture of the total debt capacity of the County as well as the competing interest for this capacity. In particular, the pie chart showed the whole debt capacity. The second half of the chart showed the general obligation debt which is 48 1/2% of the capacity, and in particular, the competing interest for that capacity. The total value of the projects that have been identified to date, represent 51.4% of the County's general obligation debt capacity. These projects range from those that have been identified in the capital improvements program, those identified in the five year automation plan for the County, to those which have been citizen-initiated. This handout also identified the percentage of the capacity that is currently obligation as well as the annual financial needs of the County.

The hearing was opened to public comment.

Alan Hoyt commented on a Missoulian article which summarized the Committee for Public Lands' proposal. He said he liked what he read. The amount of the bond issue is a substantial amount of money, but would be used proportionately to population. The greater Missoula area would be spending most of the money. He said he liked the idea that some of the bond money could be spent on the Fort Missoula lands. He said he thought it might be better to put this bond issue on the November ballot rather than the June ballot in order to give the groups associated with this issue more time to get as broad a coalition as possible to support this. The bond issue is in the interest of the vast majority of people in this County and it would help to have a little time to get these people fully informed as to the details of the issue and motivated enough to make a long-term obligation. He said it was a far-sighted proposal and in the short and long-term interests of the community.

There are many ways of acquiring open space such as conservation easements or landtrust mechanisms, but there are going to be times land must be acquired in the marketplace. He said it would not be fair to take developable land from the developers for open space without due compensation.

Tracy Stone-Manning, representative of the Five Valleys Land Trust, thanked the Commissioners for their efforts to protect the wildlife habitat, riparian areas, and open hillsides and said she appreciated that the Commissioners were considering an open space bond issue on the June ballot. She said the Trust will support and work towards the passage of the $7-8 million open space bond. She said their research indicated that nationwide, the tolerance for passing a bond tends to be $25 per average household which is what a $7 million 15-year bond would cost. There is a fine line between what figure would be effective and what would pass. Since the bond amount won't sufficiently meet all the open space needs in the County, she urged the Commissioners to come up with a detailed priority list for acquisition of fee title and conservation easement lands. She said the Trust supported either a June or November vote. However, they preferred the measure to be on the November ballot for the following reasons: 1) June isn't a general election and the requisite number of voters may not show up at the polls; 2) the Trust felt that there would be no way to separate an open space bond campaign from a "Save the Fort" campaign; and 3) a November vote would give the open space advocates time to create an effective, united campaign. She said no matter the outcome of this hearing or bond vote, the Trust urged the Commissioners and the people of Missoula County to continue down other avenues that will protect the precious habitat and open lands remaining in Missoula County.

Ken Stolz, Chairman of the City Park Board, said the Board authorized him to endorse the open space bond issue on the ballot. However, the board's endorsement comes with two caveats: 1) there must be an assurance that at least some of the proceeds will be spent to acquire park lands for traditional organized recreational purposes; and 2) there must be an assurance that projects benefiting the urban area will be funded in rough proportion to the dollars raised in the urban area.

As a member of the Non-Motorized Transportation Steering Committee, he urged the Commissioners to use a broad definition of open space such as included in the statutes. Linear open space frequently is referred to as trails and would be a permissible expenditure of these proceeds, particularly if it linked other open space areas acquired through this process.

As a citizen of Missoula City and County, he said he had a lot of faith in the Commissioners' ability to come up with an equitable solution to the concerns about urban/rural area needs. He encouraged the Commissioners to work to the extent possible in a legal environment to make sure that the expenditures are balanced equitably. In the absence of this, a bond issue vote is liable to fail. He urged the Commissioners to work with the City to allocate the funds to accomplish multiple purposes.

James Regan, Orchard Homes resident, said he believed that the 12,800 people who signed the Save the Fort petition were misled. The group is using the petition in a way that was not intended. The petition was to save Fort Missoula, not to buy open space. The County owns 160 acres in the Spurgin area, but the County Commissioners are considering giving 65 acres away to low income people. They propose to sell 2 1/2 acres for less than half of its assessed value. The land was assessed at $25,000 per acre for the first acre and $20,000 for each acre after that. He said he didn't know how the County could do this and put a bond issue on the ballot for $8 million to buy more space when there is land available that is owned by the County. There are 1,900 acres of park land in Missoula County. Momont, which is located by the airport, has 400 acres and is also owned by the County. This industrial development still seems to be vacant.

He said another $27 a year doesn't seem like much to some, but if a person is unemployed or living on a small pension, $27 is a lot of money. $8 million dollars will also be taken off the tax rolls which is more taxes the citizens of Missoula will have to come up with. He said it would be very ludicrous for the Commissioners to sell park land that the County already owns and put the bond issue on the ballot.

Craig Sweet, a member of the City Council member, said "you don't know what you have until its gone". This is very true with open space and the areas that are unique and precious. Whether it is acquiring lake front property or acquiring land on Mount Jumbo, it is important. He commended the Commissioners for considering an open space bond issue. However, when considering this bond, the urban area must be clearly defined and there must be a written guarantee that the funds will be equitably split based on population.

James Beyer, resident of South 7th West, commented that approximately 150 years ago, the City of New York put a park in a cow pasture which is now called Central Park . They had the foresight to set aside open space when they had it. He said he moved here from Virginia 20 years ago. He has seen a phenomenal amount of growth. Montanans must preserve their open space and spend money on open space if it is necessary. He said the equestrian park should remain as it is now.

Andy Sponseller, representing Save Open Space, Inc., said the group would like to support any effort to conserve open space, but are inclined to support efforts that are City oriented. He said at this time, given some appropriate language in the bond issue, the group could support a County bond issue. This would necessitate inclusion of a written guarantee that equitable distribution of funds for the urban area would be ensured and that the urban area would be assured a say in what particular open lands were acquired. It is imperative that open lands be conserved in the Missoula Valley.

Rodney Vannoy, resident of the Blackfoot area, speaking as a representative of the Swan Valley residents, said if the people living in the urban area want to put their money on the line for acquiring land for open space, it should be their privilege. He said he didn't think the taxpayers in Missoula County should have to support something for the urban area. If the people in Seeley Lake want open space, let the residents of Seeley Lake support it. He expressed concern that the amount people would be taxed would be based on the taxable value of their homes. Homes are not the only thing that have taxable value. Businesses would also be taxed. He wondered what it would cost the businesses to support this? In the end, the consumer will pay for the taxes. The people who are excited about open space should put up the money for open space; leave the rest of the residents of Missoula County alone. He urged the Commissioners not to place the bond issue on the ballot. However, if it is placed on the ballot, he urged the Commissioners to leave the rural areas out.

John Rimel, resident of Whitaker Hill, said his folks bought their small ranch in this area in 1955. At the time, all of their friends thought they were "nuts" for moving so far out of town. He said they are currently bordered on two sides of the City. He said they still farm and ranch the property as an agricultural entity. He said he supported the bond issue. Last fall he attended a meeting on open space sponsored by the Office of Community Development where they talked to several of the landowners in the South Hills area and along the Bitterroot River about open space. He said a lot of the larger property owners were adamantly opposed to open space because they were afraid the County planned to legislate what they could do with their property. They were afraid if they didn't act soon to develop their property, they would be declared defacto open space by being the last property owner to have open space. He said this is not a proper way to approach this. It would be a good idea to allow the people of Missoula County to vote on this issue. It is important to preserve property around the urban area as open space. It is also appropriate to purchase the development rights. He said this may not necessarily remove the property from their ownership unless it was

purchased outright. Also, it would not remove the property from the tax base. He said this is not a whole solution to open space or growth in this valley. Land will never be cheaper than it is now. He said a couple of years after his folks bought their place, they had an offer to buy the adjoining ranch for $25 an acre. Some friends in the banking industry told them this was a lot of money for worthless agricultural land. This is now the property that most of the South Hills sits on. He said buying the development rights does not solve the problem of open space. He gave the example of Boulder, Colorado, where they put a limit on growth which increased the property values in the urban area and forced the development outside the greenbelt. He said there are houses in places where he couldn't imagine building. This is what will happen if this issue of open space is not dealt with carefully. Another approach might be looking at a state-wide zoning law. The state of Oregon has a land conservation and development commission which has identified 19 goals. As land is developed, these goals must be addressed such as preservation of agricultural land, preservation of riparian areas, as well as providing adequate housing.

Bill Ballard, member of the Open Space Advisory Committee to the City, said he was happy to see the Commissioners entertaining the notion of a bond issue. He said the suggestions should be carefully listened to regarding the concerns about equability, how to place priorities and the mechanism for assuring people that these can be done. He said he would like to see the bond issue on the ballot with these assurances. He said if the bond issues passes, he will consider it to be a very welcome expression of a positive outlook for the future.

Chris Gingerelli, member of the City Council, acknowledged the difficulty of the Commissioners' task of undertaking the bond issue. The County Commissioners have different constituents--rural and urban. It is a tough job to balance the two. She said she agreed with prior statements made about the two elements a County open space bond should have: 1) a map or description of the urban area; and 2) a formula or mechanism in writing that sets forth how this money will be spent within each taxing jurisdiction. The concern expressed by the public could be put to rest if these two elements were put in writing. She said there are 160 houses already platted above the Mansion which is another pressure on the urban area and open space lands.

She said she supported the effort, but if the Commissioners do not feel they can give the urban area this guarantee, the City could take it over.

Dick Gotshalk, Chairman of the City's Open Space Committee, said while the committee has no advisory role to the County Commissioners, they have been active in open space matters for quite a while. He said the committee wanted to make sure an open space bond passes. It is important to see both the City and the County governments working together. For this to pass, the citizenry must be confident this is the case. He suggested the following on how a County bond could be framed to gain the support of a diverse constituency: 1) an assurance the bond amount will be a minimum of $8 million; 2) the bond language should include a definition of open space which makes clear on what the funds may be spent.. In addition, there should be a commitment to some expenditure for each of the types of open space mentioned in the definition; 3) the language should contain a commitment of the expenditure of the funds into the following formula: divide the county area into two areas--the urban area and the rural area. The total taxable value for the two areas should proportionately be allocated bond funds. He said the urban and rural areas should have boundaries. Perhaps the boundaries could be defined by the school district boundaries, or the accepted urban area in the 1990 update of the Urban Area Comprehensive Plan. Another boundary possibility could be the Water Quality District; and 4) a process needs to be set up for the expenditure of the funds which involves the citizens of each area. Two advisory boards need to be set up, one for the rural area and one for the urban area. The City and the County should enter into an interlocal agreement containing the following stipulations: the advisory board should be set up immediately following favorable action by the voters to pass the bond proposal; the board should be composed of nine members, some being citizens residing within the city and some citizens residing outside the city but within the urban area; the City Council will select two-thirds of the members, the County, one-third; the appointed citizens will be elected members or employees of either local government, but the City Council may appoint two of its own members; staffing for the board should include the Office of Community development, Rural Planning, and the City Parks and Recreation staff; the board will be charged with developing advice and recommendations based on a coherent urban area-wide approach to an open space system that will fit with a countywide open space system; and the County government, in its expenditure of funds for land within the urban area, will follow the advice and recommendations of this board.

He said there is a great deal of mistrust of the government today as well as mistrust between the City and County governments. However, the government must proceed on this issue because it concerns everyone.

Mike Jarnevic, representative of the Missoula Valley Improvement Association, said the organization wholeheartedly endorses the open space bond issue. The group is for clean air--open space means clean air. There is public support for the proposal. In view of the rapid population expansion and the ever dwindling open spaces in the Missoula valley, this is an idea whose time has come. He said he agreed that because of the Save the Fort issue is in June, it would be prudent to move the open space bond issue to the November election.

Lex Hames, Chairman of Save the Fort, spoke in support of open space. However, he said it would be better for the cause of open space and better for the bond issue itself if the vote on the bond issue was held in November. The supporters of Save the Fort can't work for both issues. It is also a matter of clarification. If the bond issue is put on the ballot in June, two major issues concerning open space will confront the public: the question of zoning at Fort

Missoula and the bond issue itself. It is important that Missoula voters be able to make clear distinctions on each issue, without confusion between the two. Its also important that people realize the two referenda are not linked. The difference would be clearer if the two items did not appear on the same ballot.

He said it is important that Missoulians know that Save the Fort has not asked for any public money to support their efforts. It has been entirely by volunteer efforts, funded out of private pockets. A vote for Save the Fort is not a vote for a tax increase or a request for public funds. It is a vote on zoning to prevent urban development of historically open lands. This clarification would be much stronger if the bond issue vote were held in November.

Will Kerling, resident of the Lower Rattlesnake, said it has been alarming to read about the song birds disappearing and that there is the possibility the amphibian population is losing ground due to the ozone situation. He said he would like to see the bond issue happen, but on the November ballot. It is a good idea to separate the two issues of the Save the Fort and the open space bond issue. He said wildlife does not deal with human politics and City and County lines. He wanted to see someone examine and give advice on the dynamics for the whole County concerning open space. It is important to everyone to have the wildlife. Somehow human needs must be addressed while balancing the needs of the wildlife. He said it is a life and death issue--their health is an indication of the health of humans.

Ron Erickson, resident of Pattee Canyon, said he very much wanted the bond issue to happen. However, because it takes so much time to get things going and because the price of land keeps going up, he would rather see the bond issue on the ballot in June.

Dana Boussard, resident of Arlee, in Missoula County, favored putting the open space bond issue on the ballot. However, this is not primarily an urban issue. The rural areas and corridors are being destroyed. She spoke in favor of including the urban as well as the rural area in the bond issue.

There being no further comment, the hearing was closed to public testimony.

Fern Hart asked Michael Sehestedt to indicate the number of voters needed to vote for the issue.

Michael Sehestedt explained that to issue a general obligation debt, the State statute requires an affirmative vote of the people. A minimum of 30% of the registered electors must turn out for the election. If the turnout is less than 30%, the bond issue fails no matter what the actual count of the votes is. If more than 30% or less than 40% of the registered electors turn out for the election, approval of the bond issue requires a 60% favorable vote. If 40% or more of the registered electors turn out to vote, the bond issue can be approved by a simple majority vote. Those numbers and required percentages are particularly interesting since this is an off-year election. Historically, voter turnout in the last two non-presidential June primaries was 28% of the registered voters. About 36% of the registered electors turned out for the off year primary in 1990. There are other considerations on the ballot this June that may change the numbers, however.

Ann Mary Dussault asked Bob McKelvey to clarify his group's view of equitable distribution. In the testimony there were two formulas given; 1) population and 2) taxable valuation.

Bob McKelvey said they have no strong preference between the two. The general urban area contains probably 75-85% of the people. This distribution should not be rigidly controlled. He said it should be equitable throughout the County. Development in the outlying areas are just as serious a matter as development within the urbanized area. It is still the case that land is cheaper and money for land can go a bit further than if it was purchased in the urban area. He said the idea of prorating involves making sure everyone feels that their interests are properly taken care of. The details of how this will be done is not really important at this time. He said the only thing important now is that everyone perceives the process to be fair, reasonable and deliberate. This does not have to happen before the Commissioners' decision. He said what has to happen is the language of the ballot. The other details can be worked out over the next few weeks. He commented that he hoped this would not occur in a complicated and rigid way so as to lose all flexibility. On the other hand, he hoped it would be perceived as being just.

Ann Mary Dussault said the Commissioners' balancing includes the size of the proposed bond issue versus their sense of the debt obligation to this particular issue. She said there appears to be research that would indicate a tolerance by the public.

Bob McKelvey said people do not make a careful calculation of this sort. He said people will decide whether or not this is an issue they really care about. If they decide that it is, they will not be limited by having to pay one or one and a quarter percent more in their property taxes.

He said the public voted in favor of consolidating the school districts because it was a good thing to do even though it will cost to do it.

People in Missoula County have come through whenever they have been convinced that what they are being asked to do is something good and something that will be handled well. If this can be conveyed, $25-29 per $100,000 home shouldn't make a difference.

MARCH 8, 1994 (CONT.)

Barbara Evans expressed her thanks for attendance at this meeting. She thanked the open space groups for working together to get this bond issue on the ballot.

Fern Hart thanked the audience for their attendance and the respect shown for one another's differences.

There being no further business to come before the Board, the Commissioners were in recess at 8:15 p.m.

MARCH 9, 1994

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

Audit List

The Board of County Commissioners signed the Audit List, dated March 8, 1994, pages 2-31, with a grand total of $122,903.04. The Audit List was returned to the Accounting Department.

Amended Monthly Report

Chair Hart examined, approved and ordered filed an Amended Monthly Reconciliation Report of Justice of the Peace David Clark for month ending January 31, 1994.

Monthly Report

Chair Hart examined, approved and ordered filed the Monthly Reconciliation Report of Justice of the Peace Michael Morris for month ending February 28, 1994.

Monthly Report

Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace David K. Clark for month ending February 28, 1994.

DAILY ADMINISTRATIVE MEETING

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

CTEP General Project and Maintenance Agreements

Chair Hart signed a CTEP Maintenance Agreement and a General Project Development and Construction Agreement between Missoula County and the Montana Department of Transportation for Project No. STPE 8199(13) Trolley Car-Missoula, the community transportation enhancement project described as restoring street car #50 to a nearly new condition, as per the items and terms set forth, for a total estimated cost of $100,000.00, with the County responsible for $20,000.00 and the Federal participation will be $80,000.00. The Agreements were returned to Horace Brown, County Surveyor, for further handling.

Other items included:

> The Commissioners approved a request from the Fair to spend approximately $15,000 to remove the old underground gas storage tanks located on the fairgrounds.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Fern Hart. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

DECISION: PROPOSAL TO CALL FOR ELECTION ON ISSUANCE OF GENERAL OBLIGATION BONDS TO PROVIDE FUNDS FOR OPEN SPACE

Fern Hart explained at the public hearing on the proposal to call for an election on the issuance of General Obligation Bonds to provide funds for open space last night, public comment was taken. The Commissioners will make a decision on the bond election. The bond documents have been drafted.

Ann Mary moved and Barbara Evans seconded the motion to adopt the resolution calling for an election on the question of whether or not Missoula County should issue its General Obligation Bonds in an amount not to

exceed $8 million for the purpose of establishing and funding the Missoula County Open Space Acquisition Fund which shall be used to acquire interest in or rights in property commonly known as open space and defined in the Statutes, based on the following issues:

1) Resolution calls for the definition of open space as defined in the Statutes;

2) It sets the amount to be voted upon at $8 million; and

3) It sets the election for the primary election in June, 1994.

The motion carried on a vote of 3-0.

Ann Mary Dussault explained there are other associated issues which were discussed at last night's hearing. It was not necessary to resolve these issues in order to meet today's deadline. These issues revolve primarily around a consensus on a definition of urbanized area and also the process by which the Commission would make the determination on which properties to purchase. The understanding is there will be equitable distributions of the funds should the bond issue pass between the urban area and the non-urban area. She said it was her intent to hold further discussions on these issues and would probably invite the Committee for Public Lands to join in.

Fern Hart said this was the understanding of the rest of the Board as well.

RESOLUTION NO. 94-029

The Board of County Commissioners signed Resolution No. 94-029, a resolution calling for an election on the question of whether or not Missoula County should issue its general obligation bonds in an amount not to exceed $8,000,000 for the purpose of establishing and funding the Missoula County open space acquisition fund which shall be used to acquire interests in or rights in property including land and water, that will provide a means for the preservation of significant open space land or the preservation of native plants or animals, or park or recreational purposes or geological or geographical formations of scientific, historic, aesthetic or educational interest in Missoula County and to pay the costs associated with the issuance of the bonds.

CONSIDERATION OF: GRANT CREEK VIEW ADDITION (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that Grant Creek View Addition is a proposed 2-lot subdivision of a 27.12-acre parcel of land known as Tract 6 of C.O.S. 4079, located east of lower Grant Creek Road adjacent to the planned Gleneagle subdivision in Section 32, T12N, R19W. Tract 6A is proposed to be 15.02 acres in size, and the acreage of Tract 6B is planned for 12.10 acres. Both lots are to be accessed from Gleneagle Way, and both will be served by the adjacent Missoula Water Works system and individual septic systems.

The land is sloping, with a major draw along the northwest boundary and a high hilltop to the south that rises 400 feet above Grant Creek Road. The vegetation consists mainly of native grasses and shrubs with pine trees in the lower-lying areas. Wildlife, especially white-tailed deer, frequent the area.

The property is divided by two zoning districts; C-RR1 and CA-3, and a portion is unzoned. The Missoula Urban Comprehensive Plan, 1990 Update, identifies the property as Parks and Open Space, and Open and Resource. At present, the total contiguous property ownership includes Tract 5A of COS 4210, a 17.25-acre parcel to the east of Tract 6. The owner plans to construct one home on Tract 5A and does not plan to subdivide Tract 5A at this time. Tract 5B is adjacent to Tract 5A and Tract 6 but is under separate ownership.

The Office of Community Development staff recommended that the summary plat of Grant Creek View Addition be approve, subject to compliance with the following conditions:

1. The driveway shall be paved a minimum of 20 feet back from Gleneagle Way and shall not exceed 5 per cent grade and the remaining portion of the driveway shall not exceed 12 percent grade. Driveway plans shall be approved by the County Surveyor at the time of building permit issuance. *Article 3-2(6), Missoula County Subdivision Regulations*

2. Easements shall be a minimum of 20 feet wide and their location shall be approved by the appropriate utility and the governing body. In addition to the easement location, the following statement shall be shown on the summary plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement

for the construction, maintenance, repair, and removal of their lines and other facilities in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever." *Article 3-5 and 3-6.*

3. All utilities shall be placed underground with the exception of the existing power line. The power line shall have an easement acceptable to the appropriate utility which shall be shown on the face of the plat at the time of filing. *Article 3-5 and 3-6.*

4. The face of the plat, or a recorded exhibit, shall indicate the area of land where building construction will be allowed to occur. The remainder shall be labeled "Open Space and Wildlife Habitat." The two homesites shown on the submitted supplemental data sheet shall have an engineering design sufficient to alleviate any potential hazard to be approved by the governing body prior to approval of the subdivision. *Article 3-1(2).*

5. The private access easement to serve the two lots from Gleneagle Way shall also be labeled "Public Utility Easement" and shall have a width of 54 feet. *Article 3-2(1)(I) and 3-6.*

6. The developer shall petition for and be annexed into the Missoula Rural Fire District prior to filing of the final plat. *Comments of the Rural Fire Chief.*

7. Each lot shall contribute $50 toward the purchase of a large diameter fire hose. *Comments of the Rural Fire Chief.*

8. Driveway plans, to include turnarounds, shall be approved by the Rural Fire Chief at the time of building permit issuance. *Article 3-2(6) allows for additional design standards of driveways over 150 feet in length.*

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

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owners to any future RSID or SID for a sewer or water main to serve these lots, or any improvements to Gleneagle Way and Grant Creek Road, based on benefit. *Comments of the City/County Health Department and the City Engineer.*

10. The following hillside construction standards shall be integrated into the building permit plans and approved by the Zoning Officer at the time of building permit issuance.

1) Grading shall produce slopes that are continuous in grade with the existing landform. Manufactured slopes shall substantially conform to the natural slope of each lot.

2) Cut and fill for driveways and parking areas are not to exceed 3:1 side slopes.

3) Building walls, not to include gabled ends, shall not exceed 18 feet above the adjacent finished grade on all sides.

4) The building shall be oriented parallel to the contours along the hillside presenting not more than a two-level profile when viewed from above or below, as per the attached engineering diagram entitled "Proposed Typical Development of Home on Lots 6A and 6B of Grant Creek View Addition."

Comments of the City/County Zoning Officer.

11. The Covenants and Restrictions shall be filed with the Missoula County Clerk and Recorder. They shall bear the certification of the attorney who prepared them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict. The covenants shall not be amended without the prior approval of the Board of County Commissioners. The covenants shall include the following:

A) The "Contract for City Sanitary Sewer Services" dated July 29, 1980 appears to require that lots in this area of the Grant Creek drainage connect to municipal sanitary sewer services. In the event it is determined that this agreement is applicable to these lots then they shall abide by the agreement and connect with the municipal sewer as directed by the applicable governing body.

B) One dwelling unit may be constructed on Lot 6A and one dwelling unit on 6B, with the remainder of both parcels to be preserved as open space and wildlife habitat.

C) Perimeter fencing of the property is prohibited. Although, gardens should be protected by fences of at least 8 feet in height and dogs should be leashed or kept within a smaller fenced area.

D) Recommended is the planting of native plant species, and pest and weed management should be performed through natural means, without use of toxic pesticides and herbicides.

E) Barbecue grills should be cleaned regularly and stored indoors, pet food should be stored indoors, and garbage should be kept in an animal-proof container.

F) Houses should minimize exterior lighting. Options may include using motion detecting exterior lighting or a lighting scheme that places light no higher than 3 feet above the ground.

G) Residents should obtain a copy of Living With Wildlife, which is available from the Missoula Office of Community Development or the Rural Planning Office. *Article 4-2(6)(F), and comments of the County Attorney Office and the RPO Natural Resource Specialist.*

Chip Johnson, Druyvestein, Johnson & Anderson, representing the developer, Russ Johnston, explained that the original proposal submitted to the Commissioners indicated there would be two parcels, Tract 5 and 6 which would be divided in half. During deliberations with the Office of Community Development, they elected to request a delay on Tract 5 until more dialog could be conducted with the County to see what options were available. Tract 6 will be considered at today's meeting. The division of this parcel meets the specifications of the Gleneagle Development Plan. They concurred with the staff report and conditions and requested the subdivision be approved.

Barbara Evans asked why OCD was not recommending STEP tanks for the subdivision?

Ron Ewart explained that the staff did not feel there was enough reason to require STEP tanks.

Barbara Evans said she understood the issues behind the reasoning to dry lay sewer in this community. However, it makes no sense to dry lay sewer unless it is known what kind of sewer was going to be placed in the area. She said it was her understanding that STEP tanks were a stronger type of tank that would save homeowners money in the end. She said STEP tanks were required in an adjoining subdivision as well.

Peter Neilsen, Environmental Health Unit Supervisor at the City-County Health Department, explained that STEP tanks can function the same as any other septic tank. They allow the solids to settle and the liquid portion of the effluent to flow through the tank. Either one can work. A STEP tank costs more than a regular septic tank. If pumps are included, the cost is much more. He said it was the Department's feeling that requiring STEP tanks in the community makes sense in certain areas. The Department needs to get this issue pinned down with City Engineering where it makes sense to use a STEP tank versus using gravity sewer. This should be mapped out. New subdivisions would be required to install the applicable system. The wastewater plant in Missoula now has a capacity of nine million gallons per day, but uses between six and six and a half million gallons per day, which is two-thirds of its capacity. If STEP systems are used, the volume of waste that comes to the plant is reduced because the system channels only the liquid portion of waste to the plant.. More homes can be connected to the system if STEP tanks are used. He spoke about some problems in STEP systems where technical problems could occur. Some of this can be alleviated by going to more innovative designs using STEP tanks. He said it would not hurt to put STEP tanks in, but the Commissioners may be requiring the developer to pay for something that may not prove to be necessary. It is not known whether this area will be drained by using STEP sewer or by gravity. If the developers are required to put in STEP tanks, they will be investing extra money into something that may not be necessary; however, if they don't put in STEP tanks, and in the future, STEP tanks are required, the residents will have to tear up their yard and expend more money to put in STEP tanks. He said because the lots are quite large, he wouldn't recommend dry laying sewer lines on the lots.

Ann Mary Dussault asked about the sewer system located in El Mar Estates. She asked if this type of system was created as an alternative to connection to City sewer in some areas, would it be wise to require installation of a STEP tank?

Peter Neilsen said this is a land application system. He said in this instance, it did not make a lot of sense to go with a STEP system. A land application system, in theory, discharges neither to the river nor to the ground water, but would be put on the land where the plants would benefit. He said this is in theory how the El Mar system works and should be the best system in the County.

Chip Johnson agreed with the statements made by Peter Neilsen. He explained he has done land application systems where raw sewage was transported to the treatment facility, and in another instance, it was not. It depends on the situation--the density and the topography. He said what needs to be decided is how these areas will be sewered. He spoke about the Linda Vista area where systems failed. They replaced these systems with STEP systems. This was very expensive--$6-8,000 each. A couple of years later, DJ&A designed a system and presented to the residents in the area. This was rejected because the residents did not want a STEP system. They designed a gravity collection system that flowed into large centralized septic tanks. The folks that put in STEP tanks a few years ago and spent this money are pretty upset right now. He said "you're darned if you

don't, and darned if you do". This is a situation where a person can pay now or pay later. He said it didn't matter to them if the Commissioners required STEP tanks.

A discussion ensued relative to the cost of STEP tanks versus ordinary septic systems. STEP tanks are approximately $300-$500 more than regular septic tanks. However, when pumps and the rest of the equipment are installed, the STEP system can cost much more. The Commissioners would only require the STEP **tanks** to be put in. STEP tanks can be fiberglass or concrete. There have been heavier-duty septic tanks designed which are concrete that satisfy the City's design requirements.

Horace Brown mentioned that he personally spent $400 extra for a STEP tank when he replaced his sewer. In the end, the City will be using a gravity system.

Russ Johnston explained what he planned to do with the property and said it wouldn't matter to him whether or not the Commissioners required STEP tanks. It is whatever the Commissioners and Health Department feel comfortable with. He said he wanted to divide the property to make it affordable for people to build on. They wish to make the development environmentally safe.

Ann Mary Dussault asked if it would be feasible for the lots in question to attach to some future land application system in the Gleneagle area?

Chip Johnson said it would depend upon where the treatment facility is put and how it was laid out. It would be feasible to tie the lots in question to the same system.

Ann Mary Dussault asked if it made any sense to ask that the lots in question install STEP tanks?

Chip Johnson said it would make sense to install STEP tanks, but exclusive of the pumps. In the future, if STEP tanks are required, pumps could be easily installed into an existing facility to accommodate the pumps. This is good planning.

The meeting was opened to public comment.

Kim Birck, representing Friends of Grant Creek, expressed the group's satisfaction that the project had been scaled down from what had originally been proposed. However, they were not pleased with the "divide and conquer" approach by taking out the part people object to with plans to come back with the part that is objected to. The group was also pleased with the Gleneagle development swap approach to looking at the entire area as a whole. She expressed concern that smaller pieces are not being looked at as part of the whole. She wondered why the staff report expressed that there was no sewer route known at this time? If there are 94 lots in Gleneagle, wouldn't the sewer contract pertain to Gleneagle? Why not sit down and get an engineer's point of view to look at the sewering possibilities as a whole?

She commented on the staff's recommendation to prohibit toxic herbicides or pesticides, and asked if knapweed could be handled without using chemicals? She suggested that the County Weed Department be asked to work with these residents to set up a weed control program instead of prohibiting these measures.

She wondered if the two lots in question would be served by the bus pull-out for the other two subdivisions? They have not seen any plans relative to the location of the pull-out. This is an issue that will have to be worked out. Is BFI going to pick up their trash at the end of Gleneagle Road or will they drop the trash off at the garbage pick up site?

She said if Missoula Water Works will be serving the area, the group hoped they would place a few hydrants along their route to serve the homes on the hillside.

John Hendricksen requested that Grant Creek View Addition be required to dry lay sewer for future hookup to City sewer since the lots in question are only a few thousand feet away from the City sewer line. He requested that no future subdivisions or building permits be issued in the Gleneagle area until the matter of the contract for City sanitary sewer services is resolved. He presented a petition signed by approximately 140 Grant Creek residents to the Commissioners to protest any future development in the Gleneagle area in order to protect Grant Creek, its water supply, and the Missoula Valley aquifer. More signatures can be obtained if this is not enough.

Tim Geiszler, resident of Grant Creek, stated he did not oppose this subdivision because this area is an appropriate place for housing. However, he requested that the subdivision be equipped to easily hook up to City sewer when the time comes. The area's soils are gravel and things tend to filter right through the soil. He expressed concern that the subdivision fit into an overall plan to sewer the area. This plan should start to be implemented now. He referred to the contract with the City for sewer. As a lawyer, he believed the Contract was still enforceable by not only the City, but the residents of Missoula who use the aquifer, as well. The issue should be addressed from a legal perspective before the County begins to grant approval to subdivisions without

provision for future hookup to City sewer. He wondered if the subdivision in question proposed to have overhead powerlines? There are no subdivisions located south of Snow Bowl Road that have overhead utility lines. He requested that the County continue the theme of no overhead utility lines for future developments.

Ann Mary Dussault said there is an existing overhead powerline which is referred to in the staff report. The proposal is to have buried service lines.

John Hendricksen commented that the petition is not anti-development , but is in favor of protecting the land and water of the area.

Mickey Reise, homeowner in Grant Creek, reiterated that it is important in the overall development scheme of the area to ascertain what the future easements for sewer should be. He said as a builder, he recommended that this be made part of the permitting process which would make it easier to accomplish these goals that trying to negotiate with homeowners on the location of the lines. Given the concerns of the aquifer, the costs of dry laying sewer lines is not that much.

Michael Sehestedt, Deputy County Attorney, explained that the County is still in the process of attempting to ascertain the affect of the Agreement with the City for sewer service and its current status. It is an agreement between the City and a private, but defunct, developer. It is premised upon development in the Grant Creek valley within the PUD area of approximately 1,700 residential units, 100,000 square feet of retail/commercial, 100,000 square feet of offices, 100,000 square feet of recreation facilities, a school and a fire station. Clearly, this level of development is no longer thought to be appropriate. In fact, approximately 1,100 of the residential units have been dedicated into a conservation easement since this time. The agreement is dated 1980. In 1985, the County conducted a hearing on the Gleneagle subdivision. The minutes of this meeting clearly reflect that what was planned was on-site sewage disposal using community drainfields; the plat was approved on this basis and shows the drainfield locations on the face of the plat. The agreement was not an absolute obligation to sewer properties in this area. At this time, he said he was still trying to trace the history. The PUD has expired upon which the agreement was premised. At least since 1985, it has not been a condition of development. He said at this point in time, this Board of County Commissioners has great concerns relative to sewering the area and are considering a number of options. No development can occur without Health Department review of the specific permit and a determination of non-degradation under standards much stricter than have existed in the past. He said he was not certain about the question of the agreement's affect between the City and the property owner . The County is not a signatory to the agreement and cannot be bound by a contract between another governmental entity and a private developer, particularly when it is 15 years old and is premised on a development pattern that has long since gone away.

Colleen Dowdall, Deputy County Attorney, explained that in terms of the ability to control the issuance of building permits, it is obviously not within the County's purview because it is a City function even though this property is within the County. Also, the County has no means to legally stop the subdivisions from coming in. Once they come in, the County is obligated to deal with them in a timely fashion. As a result, sometimes studies are being conducted during the time a subdivision is being reviewed.

Fern Hart said the Commissioners do not have all the powers that cities have. Counties have the same problems cities may have. The County is moving to address these problems by seeking to find what legal powers the County has.. The County is obligated to consider subdivisions within a certain timeline. The Commissioners are trying to do this with as much wisdom towards the future as possible. The Commissioners are thinking about what can be done, what is best for the land, and what is best for the aquifer. It is a case where the County simply cannot stop to get things in order. By law, the County must act when it is asked to act.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve Grant Creek View Addition summary plat, based on the findings of fact in the staff report and subject to compliance with the following conditions:

1. The driveway shall be paved a minimum of 20 feet back from Gleneagle Way and shall not exceed 5 per cent grade and the remaining portion of the driveway shall not exceed 12 percent grade. Driveway plans shall be approved by the County Surveyor at the time of building permit issuance.

2. Easements shall be a minimum of 20 feet wide and their location shall be approved by the appropriate utility and the governing body. In addition to the easement location, the following statement shall be shown on the summary plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."

3. All utilities shall be placed underground with the exception of the existing power line. The power line shall have an easement acceptable to the appropriate utility which shall be shown on the face of the plat at the time of filing.

4. The face of the plat, or a recorded exhibit, shall indicate the area of land where building construction will be allowed to occur. The remainder shall be labeled "Open Space and Wildlife Habitat." The two homesites shown on the submitted supplemental data sheet shall have an engineering design sufficient to alleviate any potential hazard to be approved by the governing body prior to approval of the subdivision.

5. The private access easement to serve the two lots from Gleneagle Way shall also be labeled "Public Utility Easement" and shall have a width of 54 feet. *Article 3-2(1)(I) and 3-6.*

6. The developer shall petition for and be annexed into the Missoula Rural Fire District prior to filing of the final plat.

7. Each lot shall contribute $50 toward the purchase of a large diameter fire hose.

8. Driveway plans, to include turnarounds, shall be approved by the Rural Fire Chief at the time of building permit issuance.

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

> "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owners to any future RSID or SID for a sewer or water main to serve these lots, or any improvements to Gleneagle Way and Grant Creek Road, based on benefit.

10. The following hillside construction standards shall be integrated into the building permit plans and approved by the Zoning Officer at the time of building permit issuance:

11. The Covenants and Restrictions shall be filed with the Missoula County Clerk and Recorder. They shall bear the certification of the attorney who prepared them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict. The covenants shall not be amended without the prior approval of the Board of County Commissioners. The covenants shall include the following:

> A) The "Contract for City Sanitary Sewer Services" dated July 29, 1980 appears to require that lots in this area of the Grant Creek drainage connect to municipal sanitary sewer services. In the event it is determined that this agreement is applicable to these lots then they shall abide by the agreement and connect with the municipal sewer as directed by the applicable governing body.
>
> B) One dwelling unit may be constructed on Lot 6A and one dwelling unit on 6B, with the remainder of both parcels to be preserved as open space and wildlife habitat.
>
> C) Perimeter fencing of the property is prohibited. Although, gardens should be protected by fences of at least 8 feet in height and dogs should be leashed or kept within a smaller fenced area.
>
> D) Recommended is the planting of native plant species, and pest and weed management should be performed through natural means where possible. Use of toxic pesticides and herbicides must have the approval of the County Weed Department .
>
> E) Barbecue grills should be cleaned regularly and stored indoors, pet food should be stored indoors, and garbage should be kept in an animal-proof container.
>
> F) Houses should minimize exterior lighting. Options may include using motion detecting exterior lighting or a lighting scheme that places light no higher than 3 feet above the ground.
>
> G) Residents should obtain a copy of Living With Wildlife, which is available from the Missoula Office of Community Development or the Rural Planning Office

12. STEP systems, not to include pump equipment, are required. This shall be indicated on the individual building plans and specified in the covenants

The motion carried on a vote of 3-0.

Barbara Evans explained that the Commissioners required STEP tanks on Vern Young's property and would feel uncomfortable about not requiring adjacent parcels to install STEP tanks. STEP tanks will protect the aquifer. At some point in the future, there will be a sewer system in this area. This will save the residents from digging up their yards to install a tank. Anything that can be done to protect the aquifer should be done.

Ann Mary Dussault commented about Kim Birck's remarks which assumed that this was a "divide and conquer" act. She said she was sorry to see this sort of cynicism expressed. The intent of the delay was to try to negotiate with the owner for something that would be for the benefit of the County and the owner by attempting to close the "road from hell".

Barbara Evans added her gratitude to the developers for their willingness to communicate with the County and make changes that will provide better aesthetics for this area. She thanked Ron Ewart for his work relative to the information on the sewer.

Ron Ewart explained that the bus pull-out hasn't been designed, but is part of the public improvements guarantee for the adjacent subdivisions. The pull-out is supposed to allow for service for other developments In this area. The school , the postal service or BFI would have the choice of using the pull-out . The pull-out will be placed for the use by all the developments in the area.

SALE OF TAX DEED PROPERTY (SECOND AUCTION)

Michael Sehestedt, Deputy County Attorney, explained that this is the second auction of the sale of tax deed property. As required by MCA 7-8-2301 (3), the second auction for the 1989 36-month delinquencies, has been set for March 9, 1994. The Notice of Tax Deed Land Sale was published in the Missoulian for two consecutive Sundays and posted in three placed as required by MCA 7-8-2302.

A copy of the Tax Deed and a courtesy letter was mailed to all interested parties on January 26, 1994, stating that they had the right to redeem the property prior to the auction.

The parcels to be auctioned along with the fair market value for each parcel as determined by Jim Fairbanks, Appraisal Office is listed below. He opened the auction to bidding:

Westview #3--Lot 17 Block 7	$35,400
Westview #3--Lot 18 Block 7	$14,000
Westview #3--Lot 19 Block 7	$14,000
Westview #3--Lot 20 Block 7	$14,000
In NE 1/4 NW 1/4 Plat A 10-12-20 1.019 ac	$ 2,500
In NE 1/4 SE 1/4 Plat G 14-13-16 .028 ac	$ 280
Tract 8C-1 in W 1/2 NE 1/4 plat A1-10-1 36-14-20 6 ac	$18,000
Improvements on leased land-MCWHIRK--Lots 1-3 Block Z	$57,800

The parcel located In NE 1/4 SE 1/4 Plat G 14-13-16 .028 acres valued at $280 was sold to Patrick and Mary L. Hayes.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER - PICKENS TRACT 1 OF COS 3233.

Kathy Smith, Paralegal for the Attorney's Office, explained that Jesse B. And Margaret Pickens submitted a request for a family transfer exemption for Tract 1 of COS 3233. Tract 1 is a 19.87 acre remainder parcel and Mr. And Mrs. Pickens propose to transfer 10 acres of the parcel to Dick Shipporeit, Margaret Pickens' son from a previous marriage. The Pickens' home is on the remaining 9.87 acres.

The history of the parcel is as follows: Mr. And Mrs. Pickens purchased the SE1/4 SE1/4 of Section 27, T11N, R20W in 1955. A retracement on this parcel was done in 1974. The Pickens' used the occasional sale exemption in 1976 and created a 5 acre parcel . The Pickens used another occasional sale exemption in 1980 creating a 10 acre parcel. In 1985, the Pickens' used the occasional sale exemption a third time creating a 4.94 acre parcel with the 19.87 acre remainder on which the family home stands.

According to the records kept by the Surveyor's Office, the applicants have previously used exemptions to the Subdivision and Platting Act as described above.

The hearing was opened to public comment.

Jesse Pickens said it was his intention to divide the parcel to deed it to his stepson. He said his stepson did not plan to reside on the property at this time.

Barbara Evans asked if this was the last piece of property Mr. Pickens planned to split?

MARCH 9, 1994 (CONT.)

Jesse Pickens explained they have approximately 10 acres remaining in their ownership.

Barbara Evans explained that the law requires the Commissioners to determine whether or not the applicant is trying to evade the Montana Subdivision and Platting Act.

There being no further comment, the hearing was closed to public testimony.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request by Jesse B. and Margaret Pickens for a family transfer exemption for Tract 1 of COS 3233, based on the finding there is no attempt to evade the Subdivision and Platting Act. The motion carried on a vote of 3-0.

Barbara Evans suggested that if Mr. Pickens wanted to split his land further, he should go through the subdivision review process.

PUBLIC COMMENT

Don Stinger, 245 North Davis, commented he was unable to attend the meeting on the open space issue at last night's hearing. He said because both the City and the County governments are involved in the open space issue, he asked that the County cooperate with the City to work with the open space groups as well as various other groups and committees. He gave examples of some of the problems that have been encountered when the City and County both have jurisdiction.

A discussion ensued relative to the regulations concerning signage in the City and the County. The County's sign regulations are more liberal than the City's. There will be a meeting on Thursday evening regarding a request for a sign variance.

There being no further business to come before the Board, the Commissioners were in recess at 3:35 p.m.

MARCH 10, 1994

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioners Evans and Dussault attended a meeting at the Target Range School with residents of the Target Range Area to discuss various land issues and concerns.

Monthly Report

Chair Hart examined, approved and ordered filed the Monthly Report of Sheriff Doug Chase, showing items of fees and other collections on account of Civil Business in Missoula County for month ending February 28, 1994.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-030

The Board of County Commissioners signed Resolution No. 94-030, a budget amendment for FY'94 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Adopted	Budget	Amended
Perm Salaries	$4,991	$1,190	$6,181
Fringe	$1,252	$ 310	$1,562
Contracted Services	$1,080	$1,000	$2,080
	$7,323	$2,500	$9,823
Description of Revenue		Revenue	
Aids HERR	$10,800	$2,500	$13,300

SDHES contract number 340238, federal catalog no. 93.118 does not match the current budget for HERR and CTRPN.

MARCH 10, 1994 (CONT.)

Budget Transfer

The Board of County Commissioners approved and signed the following Budget Transfer and adopted it as part of the FY'94 budget:

no. 94-0010, a request from the Fair to transfer $15,000 from the Capital - Improvements account to the Capital - Underground Storage Tank Removal account to remove and replace the underground gas storage tanks located on the Fairgrounds.

Deed Restriction Agreements and Subordinate Deeds of Trust

Chair Hart signed Deed Restriction Agreements and Subordinate Deeds of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with downpayment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

a) Irma Lane, in the amount of $20,000.00, for the property located at 1330 Woodhill Court in Missoula, dated March 1, 1994;

b) Gilson C. and Michell D. DeSousa, in the amount of $20,000.00, for property located at 5803 Mainview in Missoula, dated March 4, 1994; and

c) Brian H. and Jamie R. McClure, in the amount of $16,795.00, for property located at 810 Edith in Missoula, dated February 25, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Schedule A - Road Jurisdiction Agreement and 1994 Maintenance Plan

The Board of County Commissioners signed Schedule A - Revision to Road Jurisdiction Agreement dated March 27, 1967, between Missoula County and the Forest Service, updating the list of roads under Missoula County's jurisdiction and the roads under Forest Service jurisdiction. The Commissioners also signed the Maintenance Plan for 1994, which states that the parties shall maintain the roads under their jurisdiction, with the exception of those roads listed in the Maintenance Plan.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 11, 1994

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

Request for ReConveyance

Chair Hart signed a request for reconveyance of the lots pledged to secure the improvements on Rossignol Orchard Tracts, as the sewer and water system has been installed and accepted and this completes the requirements of public facilities for this subdivision. The document was returned to Mike Sehestedt, Deputy County Attorney, for further handling.

Vickie M. Zeier
Vickie M. Zeier
Clerk and Recorder

Fern Hart
Fern Hart, Chair
Board of County Commissioners

MARCH 14, 1994

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

DAILY ADMINISTRATIVE MEETING

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

MARCH 14, 1994 (CONT.)

Resolution No. 94-031

The Board of County Commissioners signed Resolution No. 94-031, a Budget Amendment for FY'94 for the Recording Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Budget
Two microfilm recorder/printers 1000-143-410940-946	$22,000

Description of Revenue	Revenue
PILT 1000-891-337014	$22,000

Closing Documents - General Obligation Refunding Bonds

Chair Hart signed the following Closing Documents for the $835,000 General Obligation Refunding Bonds, series 1994C, Missoula County:

1) the Arbitrage Certificate;
2) the Escrow Agreement;
3) the County Clerk & Recorder/Treasurer's Certificate and Receipt;
4) the Affidavit as to Signatures of County Officers;
5) the Officers' Certificate; and
6) Request and Authorization.

The documents were returned to Attorney Mae Nan Ellingson at Dorsey & Whitney for further handling.

Other items included:

a) the Commissioners approved a request from Hal Luttschwager, Risk Manager to spend $1,033 for a Toshiba 511 Fax machine;

b) the Commissioners approved a request from the Auditor's Office to apply for a business charge card from First Interstate Bank in the name of Missoula County, with a maximum amount of $10,000; and

c) the Commissioners authorized Cenex, Ltd. of Missoula to be the Missoula County designated dealer for supplying the U.S. Fish and Wildlife Service rodent control materials.

d) the Commissioners approved a CTEP Project Proposal for a walkway/bikeway to serve Hawthorne School, creating a four-foot widening on both sides of Seventh Street from Hiberta to Clements. The Proposal was returned to Horace Brown, County Surveyor, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 15, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-032

The Board of County Commissioners signed Resolution No. 94-032, a resolution disclaiming interest in the road shown on GLO Map of Section 15, T14N, R19W, PMM, resolving that Missoula County disclaims any interest in the road, but retains any and all rights it may have with regard to the existing road.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 16, 1994

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

Audit List

Commissioners Dussault and Evans signed the Audit List, dated March 16, 1994, pages 3-38, with a grand total of $116,065.93. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-033

The Board of County Commissioners signed Resolution No. 94-033, a resolution to accept real property by a temporary easement from Champion Realty Corporation, a Delaware corporation, for public road and all other public purposes located in a portion of the NW 1/4 of Section 2, T16N, R15W, PMM, Missoula County (Black Bear Drive Extension - Seeley Lake Area).

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Dr. Minott Pruyn, DVM, an independent contractor, for the purpose of providing trauma/medical therapy for injured/sick animals when the owner is unknown, as per the items and terms set forth, for the period commencing the first day of March, 1994, and shall conclude on the 28th day of February, 1994, for compensation not to exceed $20.00, with other fees as set forth in the contract. The Contract was returned to the Health Department for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:35 by Chair Fern Hart. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

BID AWARD: TRAFFIC LINE PAINT (SURVEYOR)

Bids were opened on Monday, March 7, 1994 a 10:00 a.m. for the traffic line paint for the Surveyor's Office with the following results:

Johnston Industrial Corporation	$33,035.00
Columbia Paint & Coatings	$30,356.00
Norton International/Traffic Markings	$36,367.00

The staff recommended the bid be awarded to the lowest bidder, Columbia Paint & Coatings in the amount of $30,356.00. The Surveyor's Office budgeted $30,000 in the traffic paint line item and will transfer the remainder from the guardrail line item.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bid for the traffic line paint to Columbia Paint and Coatings in the amount of $30,356.00 as the lowest and best bidder and based on the finding that there is enough money within the budget to include the transfer of $356.00. The motion carried on a vote of 3-0.

DECISION ON: RESOLUTION OF INTENT TO ADOPT FORT MISSOULA PLAN AMENDMENT (POSTPONED FROM FEBRUARY 9, 1994)

Doris Fischer, Office of Community Development, referred to her memo dated 3/16/94 which outlined the additional revisions to the 1993 Fort Missoula Plan. The development of this plan has been through an evolutionary process beginning with the draft version prepared in November of 1993 by the Fort Missoula Steering Committee. The draft went through a public hearing before the Missoula Consolidated Planning Board at which time there were some revisions proposed. There was a joint hearing held before the Missoula City Council and the Board of County Commissioners In December of 1993. The memo of 3/16/94 builds upon the 1993 Fort Missoula Plan and proposed additional revisions.

She reviewed the amendments as follows:

A. Revise Planning Area Boundary to better protect the natural resources of the Fort Missoula area.

The Planning area will be as recommended by the Planning Board, with one exception. The area

B. Access to the lands along the Bitterroot Riverfront.

She both she and the members of the Fort Missoula Steering Committee came to realize, earlier this year, that they were too loose in their discussions of public access. She agreed fully with RPO's concerns in this regard, and have prepared several language revisions to clarify that public access may be provided only where a management plan for the river corridor and its associated riparian areas indicates that such access will not damage the ecological resources.

C. Residential land use.

As proposed, the 1993 Fort Missoula Plan deliberately does not recommend specific land uses in the planning area. However, this does not equate to the new document simply carrying on with the current status quo. Rather, the new document makes clearer the conditions under which acceptable change can occur within the planning area; it also spells out (under Implementation) a lot of work that could be done, and approaches that could be taken, to further the goals of the plan.

She said she drafted some language to clearly explain why this document does not make specific land use recommendations (see attached. She said she would expect that introducing any specific land use recommendations for any of the lands within the planning area would be a sufficient modification of the proposed document, that a follow-up public review and hearing would be warranted.

D. Need for concise definitions.

She stated she could find no place in the proposed Fort Missoula Plan, where the terms open space and recreation are used interchangeably. The term open space is defined on p. 22, under 3. Environment. This definition is drawn from our existing City and County plans. She said she saw one place where the County could better balance the emphasis on ecological resource values and recreational values in discussing different types of open space, and she proposed revised language in this regard

As the time has passed and both the Equestrian Park issue and the Save the Fort effort have "heated up", that the Fort Missoula Plan has become even more vulnerable to becoming a mechanism which can be molded to fit particular interests, as opposed to overall community interests. She said she would keep working to the degree needed to get this Plan into a form where the Commissioners feel most confident that it will, in fact, be a helpful decision making guide.

New Language [p. 36 ECOLOGY] deletes public access references (and adds weed control reference).

6. Inventory the ecological features of the Fort area, and assess their condition. Prepare, finance and carry out a resource management program which emphasizes Slevens Island and the old-growth pine forest south of the Bitterroot River, and which includes restoration, maintenance, and noxious weed control activities...

7. No change.

8. Keep Fort lands on the south side of the river in their natural state for resource protection and educational purposes.

9. Restore Slevens Island to a semi-natural state and maintain it as such.

   1.A. Secure the cooperation, funds, and expertise needed to design and implement the long-term resource management program.

   2.a. Design and carry out the long-term resource management program.

   b. Identify and secure funding for the long-term management of the ecological resources of the area.

New Language [pp. 37-38 OPEN SPACE] more clearly expresses the conditions under which public access along the river corridor <u>might</u> be allowed. Items 12 and 13 are replaced with:

12. Explore and develop opportunities to provide public access along the Bitterroot River and on Slevens Island, if and only if such human activity and facilities are deemed consistent with ecological resource protection purposes and with the resource management program for the area.

a. Consider possibilities for providing non-motorized access from the Fort Missoula-Target Range vicinity to the south side of the river at a location and in a way that will not threaten the resources, especially the old-growth pine forest located on the south side.

b. Include Fort Missoula as a part of a river corridor trail system that connects with an urban area-wide system of trails and walkways.

New Language [p. 41, ACQUISITION AND PRESERVATION OF LAND]

23.a. Work with landowners to secure the preservation and enhancement of riparian lands, McCauley Butte, and other habitat in and along the river, for resource protection, public enjoyment, and educational purposes. Where these purposes may appear to conflict, the interest in resource protection should prevail.

1. a. Explore options for acquisition and management of critical lands (e.g., bond, transfer of development rights, land trade).

C. Revisions

New Language [p. 5 Presentation of the Plan] is inserted after first paragraph to explain why this Plan does not include a recommended land use map of the Fort Missoula planning area.

This Plan does not recommend one particular combination of land uses for the Fort Missoula planning area. There is no "Recommended Land Use Map". The Fort Missoula Steering Committee conceptualized a number of possible scenarios for Fort Missoula's future and determined that there are infinite combinations of possible land uses and activities which could emerge through property owner initiative -- and which could meet the goals of the Plan. This Plan therefore neither encourages or discourages one land use over another; for example, it does not preclude housing development, nor does it promote it. What the Plan does do is **express the goals, or standards, which any new development or redevelopment in the Fort Missoula planning area should meet.**

Appendix G. is a Scenarios Supplement, available for review at the Office of Community Development.

D. Revisions

New Language, p. 26 - d. Open space protection and recreational needs.

Middle of paragraph.

Availability and affordability of the large land areas needed -- whether to sustain wildlife populations or to support community ballfields -- are diminishing...

Also in this paragraph, the specific reference to Waterworks Hill was deleted.

New Language, first sentence of

PART II.B. 2. Current man-made features and modifications, together with changes which have taken place since 1973

In the twenty years since 1973, the Bitterroot River channel and riparian zone at Fort Missoula have been altered by channel fill and concrete dumping activity. No formal "development" has occurred, nor have adjoining property owners actively used the area...

Two Implementation Suggestions on p. 38 (1.c. and 1.d.) were deleted.

Ann Mary Dussault commented that Doris Fischer had addressed the concerns of the Board.

Colleen Dowdall said the resolution is a Resolution of Intent to Adopt as revised.

Ann Mary Dussault moved and Barbara Evans seconded the motion to adopt the Resolution of Intent to Adopt the 1993 Fort Missoula Plan in its final draft form as amended, as an amendment to Missoula Urban Comprehensive Plan. The motion carried with a vote of 3-0.

MARCH 16, 1994 (CONT.)

Fern Hart explained this is an intent to adopt; the resolution signals the fact that the Board will adopt the resolution if no other major changes are made. The Commissioners will take action in two weeks and will receive written comment on the plan and the revisions.

Earl Pruyn asked if the plan precluded the use of the ground for agricultural purposes?

Doris Fischer explained that the plan does not preclude or promote any particular land use, but sets parameters by which land uses can occur.

Ann Mary Dussault said for those who are concerned about this plan and the associated issues, the Commissioners have just adopted a resolution of intent to adopt. The final action will be in two weeks. During the period between now and then, the Commissioners will take written comment. She suggested that written comments be specific so the Board can look specifically at what areas of concern people might have.

CONSIDERATION OF: SB310 PERMIT FOR HELLGATE VALLEY IRRIGATION COMPANY

Marnie McClain, Deputy County Attorney, explained that the Hellgate Valley Irrigation Company submitted a Notice of Proposed Project to the Missoula County Conservation District pursuant to the Natural Streambed and Land Preservation Act in January of 1994. The irrigation company proposed to build up their diversion dike and place additional rock across the weir in the Clark Fork River. The Conservation District, through its Board of Supervisors, reviewed the application and deemed it a project. An on-site inspection was conducted on January 20, 1994 and a written report was submitted to the Board of Supervisors recommending approval of the project with modifications. At the next regularly scheduled meeting of the Board of Supervisors, held on February 7, 1994, the Board of Supervisors reviewed the proposed project and the inspection report. The project was approved with modifications, consistent with the inspection report. Thereafter, the irrigation company made a request for arbitration.

Further discussion of the project and the request for arbitration took place at the March meeting of the Board of Supervisors, held on March 14. At that time, the Board of Supervisors determined that the headgate of the ditch (the site of the proposed project) was within the 1946 city limits and not under the jurisdiction of the Missoula County Conservation District. The district so advised the applicant and referred the applicant to the Board of County Commissioners, along with their recommendation.

The staff recommended that the application should be deemed a project. The Board of County Commissioners could either adopt the recommendations of the Board of Supervisors or schedule another inspection.

The recommendation of the Board of Supervisors is to allow the ditch company to build up their dike with appropriate size angular rock riprap (36" to 48" nominal) and to modify the proposed repair of the weir that spans the width of the Clark Fork River as follows: angular rock riprap of the adequate size (36" to 48") should be placed along the entire length of the weir and not just on either side as proposed by the applicant. This would prevent scouring and increasing velocities. The project will require equipment to enter the river. Rubber tired equipment was recommended.

Barbara Evans moved and Ann Mary Dussault seconded the motion to adopt the recommendation of the Board of Supervisors of the Missoula County Conservation District to allow the Hellgate Valley Irrigation Company to build up their dike with appropriate size angular rock riprap (36" to 48" nominal) and to modify the proposed repair of the weir that spans the width of the Clark Fork River as follows: angular rock riprap of the adequate size (36" to 48") should be placed along the entire length of the weir and not just on either side as proposed by the applicant. This would prevent scouring and increasing velocities. The project will require equipment to enter the river. Rubber tired equipment was recommended. The motion carried on a vote of 3-0.

Fern Hart said the Conservation District has authority in most of the areas in Missoula County except in this area which were the City boundaries in 1946. It is rare when the Commissioners have to make these decisions.

PUBLIC COMMENT:

Michael Kennedy, resident of 120 River Pines Road, expressed concern that the comment period of two weeks on the modifications of the Fort Missoula Plan, was inadequate. He requested that the Board extend the time for comment. He said he didn't want to delay the final decision, but merely wanted the Commissioners to have more time to consider commentary from the public.

Don Stinger, resident of 245 North Davis, asked if the boundaries of the Fort Missoula Plan were absolute?

Fern Hart said yes, unless the Board chooses to change the boundaries.

Don Stinger said the City is contemplating action on an annexation along the Reserve Street Corridor. He was concerned that the boundaries will overlap the City's zoning boundaries.

MARCH 16, 1994 (CONT.)

Fern Hart said the City is a major occupier in the Fort Missoula Plan boundaries. However, the plan is not a zone.

Colleen Dowdall, Deputy County Attorney, said the plan is not an overlay. The term "overlay" has zoning connotations. It is an overall plan that they hope will match the zoning, but it is just a plan.

Fern Hart said the plan neither promotes nor precludes any development.

Colleen Dowdall said any land use would have to meet the parameters of the plan.

Fern Hart said the County is not increasing the City's problem. Where the City has jurisdiction, their plan will prevail. Where the County still has jurisdiction, their plan will prevail.

Barbara Evans asked Colleen Dowdall to look into the SD-2 zoning proposal to see if there is any conflicts between the two.

Charlene Miller, resident of 3416 South Avenue, expressed concern about the speed with which the plan was pushed through. She said as a member of the steering committee for the Fort Missoula group, she was overwhelmed because they never had ample time to really look at the issues. She said the Office of Community Development did a tremendous job in their efforts to put this plan together. They spent much time with the residents. She requested that the two week time period be expanded. The public was not really aware of the whole process. She expressed concern that the plan supported the privatization of land and that some of the historical sites will be destroyed. She stated that as a member of the steering committee, she did not support the plan. She wanted both the public and the Commissioners to have the time to take a longer look at the plan. She wanted to know who was going to take the lead in implementing this plan--the City or the County?

Fern Hart said the wisest communities update their plans every five years. It is not a question of either the City or the County taking the lead. The property is in the jurisdiction of both the City and the County. This community is changing and will continue to change. Plans will change. She asked Charlene Miller to direct her written comments to her concerns specifically to the historical areas. There are different sorts of historical interest. The intentions of the plan are good, but time moves very fast.

There being no further business to come before the Board, the Commissioners were in recess at 2:15 p.m.

MARCH 17, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Fern Hart was on vacation March 17 and 18; at noon, Commissioner Evans attended the Missoula Exchange Club's Law Enforcement of the Year Presentation and Luncheon at the Edgewater.

Indemnity Bond

Acting Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Cynthia Spethman as principal for warrant #662, dated March of 1994, issued on the General Payroll Fund in the amount of $162.83 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #5, pay date of March 4, 1994, with a total Missoula County Payroll of $458,972.47. The Transmittal Sheet was returned to the Auditor's Office.

Resolution No. 94-034

The Board of County Commissioners signed Resolution No. 94-034, a resolution of intention to create Rural Special Improvement District No. 8458 for the purpose of constructing a domestic water supply and distribution system including fire hydrants for a portion of the Sunset West area, T14N, R20W, Section 8, Missoula County, setting the hearing date for April 13, 1994, at 1:30 p.m.
The Resolution was returned to Jesse Sattley, RSID Coordinator, for further handling.

MARCH 17, 1994 (CONT.)

Agreement

The Board of County Commissioners signed a Standard Agreement relating to Paying Agency, Registrar and Transfer Agency, dated March 15, 1994, between Missoula County and First Trust Company of Montana National Association, designating First Trust as the paying agent, registrar and transfer agent for the General Obligation Refunding Bonds, Series 1994, in the amount of $835,000.00, as per the covenants and agreements set forth. The Agreement was returned to John DeVore, Administrative Officer, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 18, 1994

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

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

MARCH 21, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Fern Hart was on vacation through Tuesday, the 22nd.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Gregg Potter, an independent contractor, for the purpose of mowing, irrigation, landscaping, lawn and grounds maintenance for the Historical Museum at Fort Missoula, as per the terms set forth, for the period commencing April 15, 1994, through October 15, 1994, for compensation in the amount of $725.00 per month.

Resolution No. 94-035

The Board of County Commissioners signed Resolution No. 94-035, a resolution of intent to adopt the 1993 Fort Missoula Plan, in its final draft form, as an amendment to the Missoula Urban Comprehensive Plan, as per the items set forth.

Easement

The Board of County Commissioners signed a perpetual easement to U S West for a 10-foot tract of land owned by the County in the park areas of West View Subdivision located in Sections 26 and 27, T. 12 N., R. 20 W., PMM for the purpose of replacing the phone cable in the West View Subdivision and placement of cabinet as requested. The easement was returned to Horace Brown, County Surveyor, for further handling.

Deed Restriction Agreement and Subordinate Deed of Trust

Acting Chair Dussault signed a Deed Restriction Agreement and a Subordinate Deed of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnership Program (HOME) funds to assist with downpayment, closing cost, and if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

> Kenneth R. and Mary M. Raichle in the amount of $18,998.00, for property located at 1101 Butte in Missoula, dated March 15, 1994.

The documents were returned to Cindy Wulfekuhle, in Community Development Programs, for further handling.

MARCH 21, 1994 (CONT.)

Letter of Agreement

Acting Chair Dussault signed a 1994 Letter of Agreement between Missoula County Board of Trustees for Museums and the United Peoples Foundation and the Fort Missoula First Nations Powwow Celebration for the purpose of conducting a Powwow and Celebration on the grounds of the Historical Museum at Fort Missoula from July 28 through August 1, 1994, as per the terms and conditions set forth, with the Powwow Committee agreeing to make a monetary donation of ten percent of the gross admission receipts to the Friends of the Historical Museum.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 22, 1994

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

Indemnity Bond

Acting Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Neill Carson as principal for warrant #P076331, dated March 11, 1994, issued on the Missoula County High Schools Payroll Fund in the amount of $91.01 now unable to be found.

DAILY ADMINISTRATIVE MEETING

The daily administrative meeting was held in the forenoon. The minutes of the meeting are on file in the Commissioners Office.

MARCH 23, 1994

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

Audit List

The Board of County Commissioners signed the Audit List, dated March 23, 1994, pages 3-30, with a grand total of $196,154.97. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Closing INTERCAP Documents

Chair Hart signed the closing documents in connection with Missoula County's participation in the INTERCAP Revolving Program of the Board of Investments of the State of Montana for the financing of computer equipment and vehicles in the amount of $193,474.99 to be financed over a period of five and two years as per the attachments to the documents. The documents were returned to John DeVore, Administrative Officer, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Fern Hart. Also present was Commissioner Barbara Evans.

BID AWARD: THREE (3) MOTOR GRADERS (SURVEYOR)

Fern Hart explained from information received from Horace Brown, County Surveyor, that bids were opened for three motor graders and equipment on March 7, 1994 at 10:00 a.m. with the following results:

Triple W Equipment	3 motor graders, no trade	$554,592.00
	3 motor graders, with trade	$494,592.00
Long Machinery	3 motor graders, no trade	$508,155.00
	3 motor grader, with trade	$452,155.00

The staff recommended that the bid be awarded to Long Machinery for a total of $452,155.00 with trade. The amount will be paid through the County's use of Intercap Debt Service. The Road Fund will pay for the total cost over five years, including interest.

Barbara Evans moved and Fern Hart seconded the motion to award the bid for three (3) motor graders with trade to Long Machinery in the amount of $452,155.00 as the lowest and best bidder, with the recognition that this will be paid for over five years by use of the INTERCAP debt service. The motion carried on a vote of 2-0.

Michael Sehestedt, Deputy County Attorney, explained that the five year payment for the motor graders isn't unreasonable as they have a projected useful life expectancy of 15-20 years. The trade-ins are between 17 and 19 years old.

At this time, Commissioner Ann Mary Dussault joined the meeting.

HEARING: NUMBER OF STUDY COMMISSIONERS TO BE PROPOSED TO THE PUBLIC (as part of the question as to whether or not a review of Missoula County government should be conducted)

Michael Sehestedt, Deputy County Attorney, explained that the 1972 Montana Constitution required that the government in each local government statewide be given the opportunity every 10 years to vote on the question of whether or not a study commission should be established for the purpose of studying the structure and organization of that local government. On the time cycle established, there was an election of study commissioners in 1974 and a vote in 1984 in which no study commission was established. The 10 year time cycle again has been reached. The County must put this issue on the ballot. In the implementing legislation, the only discretion by the Commissioners is to determine how many members can be on the proposed study commission. The Statutes say it must be an odd number, no less than three. He said tentatively, the Commissioners were looking at seven commissioners. Seven will be a large enough group to do the work should the voters choose to create one. It will also allow for representation from the various interests of the County. If the voters approve the establishment of the study commission, the City commissioners will file as non-partisan candidates and be elected during the general election in November of this year.

The hearing was opened to public comment.

Jim Walterson, Chairman of the Board of Trustees of the Missoula Rural Fire District, spoke in favor of having representation from the emergency services sit on the study commission.

There being no further testimony, the hearing was closed to public comment.

Ann Mary Dussault asked Michael Sehestedt to address whether or not the Commissioners can control the kind of representation that will sit on the study commission.

Michael Sehestedt explained that the study commissioners would be elected, not appointed by the Board of County Commissioners. Should the electorate choose to establish a study commission, he said he hoped the fire and emergency services interests would try to have some interested and well-qualified candidates run. The decision as to which individuals will be on the study commission resides with the voters.

Ann Mary Dussault asked if the same question will be put to the City residents?

Michael Sehestedt said what will happen is Missoula County will call for all the electors in Missoula County; both those who reside within the city and those residing outside the city will be given the opportunity to vote on the question of whether or not the County government should be reviewed. The City government is under the same constitutional statutory mandate. For the City residents, there will be a second question--whether or not a study commission should be established for the City of Missoula. He said the number of votes necessary will be a simple majority of those voting. There is no percentage of voter turnout required. A majority county-wide would be required to establish a county study commission and a majority city-wide would be required to establish a city study commission. It is possible that one government would establish a study commission, while the other would not, depending upon the vote.

He said if the voters choose to set up a study commission, the members would be elected by the people. If the elected members of the commission choose to make recommendations for changes in form of the local government, those recommended changes must go to the electorate voters for approval.

Barbara Evans asked about the possibility of a millage would be attached to the ballot so the public would be aware of this fact.

Michael Sehestedt said the statutes say that the County may levy not to exceed one mill for the purposes of funding the study commission. He said he didn't know whether or not the study commission would submit a budget that would call for the one mill or the Board of County Commissioners would ultimately approve a

budget that calls for the full one mill. Clearly, there is the possibility that the study commission can tax up to one mill to complete its work. This information can be placed on the ballot if the Commissioners want this to be part of the ballot language. What needs to be decided is the number of study commissioners. This should be decided by tomorrow. The statutes require the decision must be made by the seventy-fifth day preceding the election.

Barbara Evans moved and Ann Mary Dussault seconded the motion to place seven members as the number of study commissioners on the ballot for the possible local government study commission. The motion carried on a vote of 3-0.

A discussion ensued relative to the number of study commissioners chosen in the past as well as how many the City chose to be on the City's study commission. It was concluded that in the past, the number was set at seven. The City chose seven as well.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER - HIRST - SW 1/4 NE 1/4 of Section 32 T21N 16W

Kathy Smith, Paralegal for the Attorney's Office, explained that Shari L. Hirst submitted a request for family transfer exemption for SW 1/4 NE 1/4 of Section 32 T21N 16W. This is an approximately 40 acre parcel and Mrs. Hirst proposes to transfer half of the parcel to her daughter, Deborah L. Hirst.

The history of the parcel is as follows: Mrs. Hirst and her husband, Gordon E. Hirst, purchased this parcel in its present condition in 1968. Mr. Hirst passed away approximately 10 years ago.

According to the records kept by the Missoula County Surveyor's Office, the applicant has used the following exemptions to the Subdivision and Platting Act: an occasional sale exemption with a remainder in December, 1984.

The hearing was opened to public comment.

Greg Martinsen, Martinsen Surveys, said the previous Certificate of Survey was not on the parcel of land in question nor was it a family transfer.

A discussion ensued relative to the access to the property and the surrounding uses. The property is located on the valley floor. The question of whether or not the area had a land use designation in the Comp Plan was discussed. It was decided that while Kathy Smith would check into this, the property in question was probably too far out to be covered by either the Missoula Comp Plan or the Seeley Lake/Condon Land Use Comprehensive Plan.

There being no further testimony, the hearing was closed to public comment.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the family transfer request by Shari L. Hirst for the property located in SW 1/4 NE 1/4 of Section 32 T21N 16W, based on the finding that the request did not attempt to evade the Montana Subdivision and Platting Act and subject to the condition that the deeds be transferred to the family member. The motion carried on a vote of 3-0.

HEARING (CERTIFICATE OF SURVEY REVIEW): FAMILY TRANSFER - RICHARDSON - SW 1/4 NE 1/4 of Section 26 T13N R20W

Kathy Smith, Paralegal for the Attorney's Office, explained that Lena Richardson submitted a request for a family transfer exemption for SW 1/4 NE 1/4 of Section 26 T13N R20W. This is an approximately 48 acre parcel and Mrs. Richardson proposed to transfer one acre of the parcel to her son and daughter-in-law, Kenneth W. And Lorna M. Richardson.

The history of the parcel is as follows: The parcel has been in the Richardson family since 1949. Kenneth and Lorna Richardson have an existing home on the proposed parcel and have resided on the property since 1966.

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

The hearing was opened to public comment.

Ken Richardson said he has lived on the property since 1966 and would like to have the property transferred into his and his wife's name.

Ann Mary Dussault asked if the applicant understood that if the Commissioners approved the family transfer, this action would prohibit any further division by the family transfer exemption in the future?

MARCH 23, 1994 (CONT.)

Ken Richardson said he understood this.

There being no further comment, the hearing was closed to public testimony.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request by Lena Richardson for a family transfer exemption for SW 1/4 NE 1/4 of Section 26 T13N R20W, based on the finding that the request does not attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

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

MARCH 24, 1994

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

DAILY ADMINISTRATIVE MEETING

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

> The Commissioners approved a transfer of $8,386 from Larchmont's operating account to the capital account to purchase and install lockers. The Commissioners also approved and signed the Bylaws for the Larchmont Board of Directors. The documents were returned to Sharyn Solum, Administrative Assistant, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 25, 1994

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

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

MARCH 28, 1994

The Board of County Commissioners met in regular session; all three members were present. The Board attended a Growth Management Meeting at City Hall all forenoon. There was no Administrative Meeting.

Grant Agreements

Chair Hart signed Noxious Weed Trust Fund Project Grant Agreements between Missoula County Weed District and the Montana Department of Agriculture for the purpose of containing and reducing noxious weed infestations in the following management project areas, through June 30, 1995, as per the terms set forth:

1) Wallace-Schwartz Creek Weed Management District project area (Number MDA 94-10) targeting 54.2 aces for treatment for a maximum amount of $1,090;

2) Morman Creek Expansion II Project area (Number MDA 94-13) targeting 124 acres for treatment for a maximum amount of $1,274;

3) Cayuse Weed Management District Project Area (Number MDA 94-11) targeting 528 acres for treatment for a maximum amount of $6,167; and

4) Sunset West Weed Management District Project area (Number MDA 94-12) targeting 245 acres for treatment for a maximum amount of $3,301.

The Agreements were returned to Alan Knudsen at the Weed Department for further signatures and handling.

MARCH 29, 1994

The Board of County Commissioners met in regular session; all three members were present. In the evening, Ann Mary Dussault attended a Health Board hearing on the Proposed Air Regulations held in the City Council Chambers.

DAILY ADMINISTRATIVE MEETING

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

Deed Restriction Agreements and Subordinate Deeds of Trust

Chair Hart signed Deed Restriction Agreements and Subordinate Deeds of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with downpayment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

1) Marcia E. Murphy, in the amount of $20,000.00 for property located at 2011 Mount Avenue in Missoula, dated March 22, 1994; and

2) M. Douglas McCullough, in the amount of $18,680.00 for property located at 1756 West Kent Avenue in Missoula, dated March 22, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

General Project Development and Construction Agreement

Chair Hart signed General Project Development and Construction Agreements between Missoula County and the Montana Department of Transportation for the development and construction of the following Community Transportation Enhancement Program (CTEP) Projects, as per the terms and conditions set forth:

1) Airport Road Walkway in Seeley Lake - STPE 32(17) Control No. 2613, at an estimated cost of $50,000.00; and

2) the Mullan Road Walkway in Frenchtown - STPE 263-1(12)14, Control No. 2612, at an estimated cost of $60,000.00.

The Agreements were returned to Horace Brown, County Surveyor, for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MARCH 30, 1994

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

Audit List

The Board of County Commissioners signed the Audit List, dated March 29, 1994, pages 4-28, with a grand total of $97,610.51. The Audit List was returned to the Accounting Department.

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Stephen Waggoner as principal for warrant #P077127, dated March 25, 1994, issued on the Missoula County High Schools Payroll Fund in the amount of $316.68 now unable to be found.

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Ellen Marshall as principal for warrant #13818, dated December 8, 1993, issued on the Hellgate Elementary School District #4 Claims Fund in the amount of $34.95 now unable to be found.

Deed Restriction Agreement and Subordinate Deed of Trust

Chair Hart signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist

with downpayment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

Lynne H. Morris, in the amount of $14,159 for property located at 5630 Dove Court in Lolo, dated March 25, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Plat

The Board of County Commissioners signed the plat for Orchard Home Company's Addition No. 6, Lots 69B-1 and 69B-2, a two-lot summary subdivision located in the SW 1/4 of Section 26, T13N, R20W, PMM, Missoula County, with the owner/developer of record being Gerald C. and Shirley A. Pew.

Other items included:

a) the Commissioners approved a contribution of no more than 30% or the amount budgeted for FY'94 for improvements to Humble and Sundown Roads;

b) the Commissioners approved that the Chamber dues be paid for the period from April 1, 1994, through April 1, 1995; and

c) the Commissioners approved subscribing to the Lolo Community News.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order by Chair Fern Hart at 1:35 p.m. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

BID AWARD: CONSTRUCTION BIDS - RSID #'S 8452 & 8453 (LINDA VISTA SEWER CONSTRUCTION)

Fern Hart said the Notice Inviting Proposals for Construction bids for RSID's #8452 and #8453 were advertised in accordance with the MCA Statute. On March 22, 1994, ten bid proposals were received and opened. All the bids are under review.

The staff recommended the award be postponed until the review of the bids is complete.

Barbara Evans moved and Ann Mary Dussault seconded the motion to postpone the award of the construction bids for RSID #'s 8452 and 8453 for the Linda Vista sewer construction until the review of these bids is complete. The motion carried on a vote of 3-0.

DECISION ON: RESOLUTION ADOPTING FORT MISSOULA PLAN AMENDMENT

Fern Hart explained that the Board of County Commissioners has considered the Fort Missoula Plan since the beginning of the year. There were two public hearings on this particular plan; one jointly with the City. During the second hearing, it was decided that the decision on this matter would be postponed until today's meeting. There was a lot of public concern. The Board discussed this concern and invited written comments indicating specific concerns.

She said everyone should be really clear what the Commissioners are talking about so that everybody starts from the same place. Comments had been received that indicated support of the 1973 Fort Missoula Plan. Public lands was another term that is questionable in many minds. There was a question relative to a district park. She said the County has done a lot of work on the Fort Missoula Complex.

Doris Fischer, Office of Community Development, explained that the reference to a district park at Fort Missoula is based on a reference and discussion that is found in the County's 1976 Parks, Recreation and Open Space Plan. This concept looks at the Fort Missoula area as a major set of park lands that would serve a regional part of the state to a degree beyond which the County is currently doing. The existing complex is certainly an element contained within the district park idea. But the notion of a district park is one that seems to be something the County and the City are working toward that would involve more lands deliberately designated for parks, recreation and open space purposes to a degree that currently isn't in place. It is a goal laid out in the County Parks, Recreation, and Open Space Plan. The Complex is a reflection of this intention and purpose, but there is more that could be done to realize this goal as a true district park.

MARCH 30, 1994 (CONT.)

Fern Hart referred to the concern expressed by the public relative to Divot Development; this development is not a part of what the County can consider. This is not what the County's plan can deal with, as it is now City property. The Commissioners adopted an historic overlay district at a previous meeting. At the hearing on March 16th, the Board adopted the Resolution of Intent to adopt the Fort Missoula Plan.

Barbara Evans thanked everyone for their letters and calls which made the Board aware of their concerns. She said the Board has heard the concerns of the public; government does listen and does care.

Ann Mary Dussault moved and Barbara Evans seconded the motion to table the Resolution to adopt the 1993 Fort Missoula Plan until June 30, 1994. The motion carried on a vote of 3-0.

Ann Mary Dussault explained the purpose of tabling the Plan: this action puts the matter to rest until a majority of the Board of County Commissioners calls it back again. The motion was made to simply table the matter--not to kill it. The Commissioners realize there is a great deal of feeling of confusion and opinion about the document, the 1993 Fort Missoula Plan Amendment. The Commissioners respect these feelings and recognize that that the 1973 Plan in and of itself is not a perfect document either. She recommended that Doris Fischer work with the Target Range Homeowner's Association and the members of the original steering committee, minus the Divot representation in order to take Divot's development out of the discussion. She asked the group to follow a process such as the County's process of changing the subdivision regulations with proper public input. This process included looking at two documents side-by-side--the old regulations and new model regulations. A collaborative process was used to meld the best of both the documents. The group should report back to the Commissioners no later than June 30, 1994. She asked that the group also work with the City in accepting these changes . The City has already adopted the 1993 Plan Amendments. The City and County documents must be in agreement with the other. It is important that the Attorney's Office work in concert with this process. There is confusion relative to what is a plan and what it can and cannot do and how this affects zoning, subdivisions, etc.

Fern Hart asked if there were any questions relative to this process?

Michael Kennedy, 120 River Pines Road, expressed appreciation that the Commissioners postponed the matter because there is a lot of feeling about this particular issue among the public. He said the public involvement issue is one of grave concern. He said the staff at the Office of Community Development, as well as the Commissioners, deal with this issue on a daily basis; it is their job to deal with this. However, the public cannot concern themselves with this issue day-to-day because they have their own issues to deal with. It simply is not possible for the public to concern themselves with this issue as have the Commissioners. The concern of familiarity is a true one. Although there have been two public meetings according to the law, the laws do not take into account the familiarity issue. If the public is familiar with the issues to the extent the planners and deciders are, there will not be the kind of disagreement normally seen on most issues. He thanked the Commissioners for their decision to delay the amendments.

Marilyn Toddard, 2105 Gerald, thanked the Commissioners for listening to the public. She said there are many interested citizens of Missoula who are not residents of the Target Range area, will they be considered for this study group?

Ann Mary Dussault said the staff will be allowed to structure the group how they want to. She said there was concern that the original steering committee was driven by the developers, Divot Development. There should have also been other public agencies represented. She cautioned that because a three month time line has been set, that these issues should be settled fairly quickly so the group can get to work. The public itself should also have a part in this process.

Gerry Berens, 2085 Edward Court, agreed with the preceding comments. He said the decision by the Commissioners to postpone the decision on this issue has renewed his hope in government; the Commissioners have listened to the public's concerns. He wondered if there was a provision to hear a minority report for anyone who might not agree with the consensus. When the Commissioners make their decision, they will have heard all opinions in the process.

Doris Fischer said this was the way the earlier steering committee operated. There was always the provision that people could offer some sort of minority position if it became necessary. She suggested that this steering committee do the same thing.

Gerry Berens said there are subtle compromises that take place in people's positions at times because they want to continue working in government. It is important to be part of the process and be able to express opinions strongly on a certain issue. This gives a true picture of what the public is feeling. He said the Save the Fort group did not realize how strong the public's feelings were on this issue. He said they did not think they could get 5,000 signatures in a week. However, 13,000 signed the petitions. This was not because of great organizational skills on the part of the group--it was because there were some very strong feelings on this issue.

Gloria Rourke, resident of Miller Creek, expressed her thanks for the Commissioners' willingness to take into consideration the general public's feelings. She said more information needs to be presented to the public relative to what is going on. Meetings should be publicized in a better manner. Many people are unable to attend day-time meetings because they work during the day. In all fairness to the public, they must be better informed as to what is going on and what meetings will impact the public. This is after all, a government for the people.

John Multon, 1855 Garden Grove Lane, appreciated that the Commissioners tabled this issue. He said he felt it was unethical to solicit public funds for open space while selling open space at the same time. He urged the Commissioners to take this into consideration when deciding the issue on the equestrian park or other lands in public ownership.

Don Stinger, 245 North Davis Street, member of the Neighborhood Network, and Co-Chair for the Reserve Street Corridor Planning Committee, said he was glad the Commissioners planned to take more time in the decision for this issue. The Office of Community Development was overwhelmed with the speed with which some of these issues must be dealt with. He expressed concern that part of the County's Comprehensive Plan overlapped part of the proposed annexation area.

Artis Kerber, 1420 Clements Road, a member of the Target Range Homeowner's Association, agreed with the previous comments and thanked the Commissioners for postponing their decision on the Fort Missoula Amendments.

Shirley Juhl, Secretary of the Target Range Homeowner's Association, said the group applauded the Commissioner's decision. Many people care a great deal about this property. The future must be considered.

Ann Mary Dussault said the Target Range Homeowner's Association was the logical place to begin to work this matter out.

Fern Hart said the Commissioners have real concerns about the plan amendments, however, the 1993 Plan would have served the public well. The public's concerns center around growth in Missoula County. The public is feeling overwhelmed and attacked. She said the Commissioners have heard the public. However, June 30th is it. The Commissioners must take timely action. It is for the benefit of all the valley to get through this issue. There will be a compromise. This is a hard issue for the Board to hear.

HEARING: PETITION FOR ANNEXATION INTO SEELEY LAKE RURAL FIRE DISTRICT (SALMON LAKE SHORE SITES)

A petition was received by the Clerk and Recorder's Office to annex a parcel of land located in Missoula County to the Seeley Lake Rural Fire District described as follows:

> All that portion of GLO Lots 2 & 3, Section 32, T16N, R14W, P.M.,M, Missoula County, Montana, less Certificates of Survey No. 1287 and No. 3412, lying westerly of the centerline of Montana Highway No. 83, and easterly of the low water line of Salmon Lake. Containing 15.05 acres, more or less.

The petition for annexation has been checked and verified. The petition contains signatures of more than 50% of the owners of the privately owned land in the area to be annexed and a majority of the tax-paying freeholders within the area described, so they meet the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The hearing was opened to public comment.

Ron Ewart, Office of Community Development, explained that one of the conditions of approval for the Salmon Lake Shore Sites was that the property be annexed into the Seeley Lake Fire District. He said he had a discussion with Colin Moon, Fire Chief, who indicated that there shouldn't be a problem with the annexation.

Michael Sehestedt, Deputy County Attorney, said that under the statutes, annexation to fire districts requires a petition and approval from the Board of County Commissioners. The petition, representing 100% of the property owners from Placid Lake Property and the consent of the fire district was received. Notice has been given. At this point, it is up to the Commissioners to determine whether or not 50% or more of the property owners within the Seeley Lake Fire District have filed written protest to the proposed annexation. In the absence of such protest, the Commissioners should proceed to grant the annexation.

There being no further comment, the hearing was closed to public comment.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the annexation to the Seeley Lake Fire District of the property located in the Missoula County known as Salmon Lake Shore Sites. The motion carried on a vote of 3-0.

CONSIDERATION OF: KOCH'S HEIGHTS (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that Koch's Heights is a proposed two-lot division of a 26.95-acre parcel of land located in Section 35, T14N, R23W, on the West Fork Petty Creek Road about 25 miles directly west of Missoula. Proposed Lot 1 is 4.18 acres in size and contains an existing, recently constructed home with a private well and septic system on fairly level ground; the slope is approximately 5 per cent. Lot 2 is to be 22.77 acres and is proposed by the developer to be a no-building zone in its entirety. The majority of Lot 2 is a steep mountain side (approximately 50% slope) with no physical access to any potential building site. The owner wishes to sell the house on Lot 1 and retain Lot 2 for recreational and agricultural purposes. The west boundary of Lot 2 borders U.S. Forest Service Land. The two lots were at one time separate C.O.S. parcels until a boundary readjustment caused the two to become one parcel.

The property is unzoned, and the Missoula County Comprehensive Plan designates this area as Open and Resource Land where one residential unit per 40 acres is the recommended density. There are no plans to make any physical changes on either of the lots although the new owners of Lot 1 may add a garage to the existing house, and the entire Lot 2 will is labeled on the plat as a No Improvement Zone.

The Office of Community Development staff recommended that the summary plat of Koch's Heights be approved, subject to compliance with the following conditions:

1. Easements shall be not less than 20 foot in width unless approved by the governing body and the appropriate utility. The following statement shall be shown on the face of the plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."
>
> *Article 3-5 and 3-6, Missoula County Subdivision Regulations*

2. The following statement shall be shown on the face of the plat:

> "Lot 2 shall be labeled a "No Improvement Zone" on the face of the plat. There shall be no construction of, or excavation for any buildings, roads, or other purposes on any part of Lot 2. This restriction shall be held in perpetuity and shall run with the land."
>
> *Article 3-1(2), hazards of steep slopes.*

3. The following statement shall appear on the face of the plat:

> "Acceptance of a deed for lot within this subdivision shall constitute assent of the owner to waive the right to protest a Rural Special Improvement District for any improvements, to include dust abatement measures, to Petty Creek Road."

Ron Ewart said the Missoula County Subdivision Regulations state that all unpaved roads shall meet the County gravel road standards, including the 24-foot width requirement. The developer's representative has requested a variance to the width standards. The West Fork Petty Creek Road is a graveled 16-foot road within a 60-foot Forest Service easement. The private road that accesses the home is a 14-foot gravel road within a 60-foot easement.

The request states that Lot 1 uses the private easement as its access. Lot 1 does border on the West Fork Petty Creek Road and could access this way, but a bridge over the road would have to be constructed. Because of the remote rural nature of this area an upgraded road would be out of character for this subdivision. A person that would want to live in this area would expect to travel on less than County standard roads. This variance request is also extended to the West Fork Petty Creek Road for the same reasons coupled with the facts that Lot 2 will not be built on, and that this road is owned and maintained by the U.S. Forest Service. The owner is willing to give up the right to protest any road or dust abatement RSID that may be proposed for this area.

The County Surveyor had no objections granting the request, and OCD staff recommended approval of the variance request to the County gravel road width standards.

Ann Mary Dussault said the actual number of combined residences that will be built on the property, will be no different than the number of residences with the property split because all of Lot 2 will have a no-build zone in perpetuity.

MARCH 30, 1994 (CONT.)

Ron Ewart said there will be no change in the number of residences as well as no physical changes to the land. He said Lot 2 is quite a steep slope. Lot 1 is 340 feet deep. Petty Creek Road runs through the middle of the two lots. On the east side, there is a steep hillside; on the other side, there is a flat area where the house is located. He said there is an existing home on the property which has been built with no disturbance to the West Fork of Petty Creek. He said the lot is accessed by a road behind the house. This road is on flat ground.

Wally Congdon, Congdon Law Offices, representing Mr. Koch, said they have no objections to the staff report other than Condition #2. He said there is no objection to a no-improvement zone, they do not want to build on the site. However, he asked that part of this condition be changed. A road into Lot 2 may be physically impossible. However, the back side of the property fronts Forest Service land. The Forest Service may eventually log part of the parcel. He said there is a level ridge in this area. Access onto this ridge at some point in time for purposes of recreation make it probable that a Forest Service road may go through to the ridge. The developer would like to construct some sort of a path, maybe two feet in width, to the top of the ridge. The adjacent property owners have indicated that there would no problem with a path. He said if the Forest Service accesses the property, at some point in time, a path to the ridge would be reasonable. He asked the Commissioners to change the language on Condition #2 to allow and limit construction of a path. Either Rural Planning or OCD could draw up language to allow a path. The owners of the property would like to access their property. They may in the future need access for fire control, maintenance, etc. Presently, the slope is vertical. Mr. Koch does not want to use the existing access to the ridge which is a skid trail that goes straight up the mountain. He does not want to use this because it a worse case scenario for erosion, etc.

He asked that language referring to "in perpetuity" be deleted and "without prior to approval of the Missoula County Commissioners" added . He said in perpetuity is pretty permanent. He said the language does not allow for change if it is warranted. If the Forest Service wants to log their property, the "in perpetuity" language does not allow for adjustments for whatever conditions may exist. He said because the property is 440 feet wide and 220 feet long, "in perpetuity" may not be appropriate. If the "in perpetuity" language is retained, it may be even more important to allow for a path. The property itself has no access to it.

He explained that the house on the property was not recently constructed, but was recently remodeled.

Ann Mary Dussault said if the Commissioners agree to try to negotiate some kind of language relative to Condition #2 concerning a horse path, she wondered if there would be a problem delaying the decision?

Stan Koch, owner of the property, asked if the 4 acre parcel could be decided upon because of the closing date.

A discussion ensued relative to delaying the decision on the summary plat approval. There was a problem concerning the closing which was scheduled for next week for the 4 acre parcel.

Marion Pellum, resident of the area, said because the property is so steep, there should be no roads cut into this area. However, he said a path would be acceptable. He said the access road is maintained only by the residents who live in the area.

Ann Mary Dussault asked if it was the Commissioners' expressed intent to approve the subdivision, could the language for Condition #2 be clarified at an administrative meeting?

Colleen Dowdall, Deputy County Attorney, said this does not have to be done at a public meeting; it could be accomplished at an administrative meeting. However, she had reservations whether this is enough time to work out language for what kind of path the Commissioners are willing to allow given this is a complicated issue.

Fern Hart said she wanted a report from Rural Planning and wanted to drive on the property.

Colleen Dowdall said Zoe Mohesky, of the Rural Planning Office, has done an incredible amount of research on paths and the effects on erosion.

A discussion followed relative to the time line before the closing of the property. It was suggested that language could be included on the plat, "improvements on Lot 2 are subject to language to be recorded by the Missoula County Commissioners or by the owner." The language could be recorded next week when it is completed.

Fern Hart wondered if this would make it difficult to research?

Colleen Dowdall wondered if an agreement would be reached in this time frame?

Fern Hart said if the Forest Service property is logged, the property in question can be accessed from the back. If it isn't logged--the owners are just lucky.

Wally Congdon said it is the owner's preference that the property not be logged. He explained that the path will not be wider than two feet. This is a trail which will be used for horses, not a roadway.

MARCH 30, 1994 (CONT.)

Colleen Dowdall said if the language could provide for the approval and specifications of the County for the path, this would be acceptable.

Ann Mary Dussault suggested the following language as an amendment to Condition #2: "There shall be no construction of or excavation for any buildings, roads, or other purposes on any part of Lot 2. **Any improvement on Tract 2 construed to be a horse or bridle path will be considered by, but must be approved by the Board of County Commissioners.** This restriction shall be held in perpetuity and shall run with the land."

Barbara Evans agreed with the language with the exception of "in perpetuity".

Ann Mary Dussault said the intent of the language was to be clear there would be no roads. The purpose of the amendment was to indicate that a bridle path or a horse path would be considered, but must be approved by the Board of County Commissioners.

Wally Congdon said the concern is that the owner wants to be able to access the top of the ridge by horseback. He said it was understood that the design was subject to approval.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the summary plat of Koch's Heights based on the findings of fact in the staff report and subject to the amended conditions.

> Ann Mary Dussault moved Barbara Evans seconded the motion to amend Condition #2 to read, "The following statement shall be shown on the face of the plat:
>
> > "Lot 2 shall be labeled a "No Improvement Zone" on the face of the plat. There shall be no construction of, or excavation for any buildings, roads, or other purposes on any part of Lot 2. **Any improvement on Tract 2 construed to be a horse or bridle path shall be considered by, but must be approved by the Board of County Commissioners. "**
>
> The motion carried on a vote of 2-1 with Fern Hart voting against the motion.
>
> Barbara Evans moved and Fern Hart seconded the motion to amend Condition #2 to delete "in perpetuity". Any change shall require a unanimous vote of approval by the Board of County Commissioners. The motion carried on a vote of 2-1 with Ann Mary Dussault voting against the motion.

The main motion to approve the summary plat of Koch's Heights based on the findings of fact in the staff report and subject to the amended conditions as follows, carried on a vote of 2-1 with Ann Mary Dussault voting against the motion:

1. Easements shall be not less than 20 foot in width unless approved by the governing body and the appropriate utility. The following statement shall be shown on the face of the plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."

2. The following statement shall be shown on the face of the plat:

> "Lot 2 shall be labeled a "No Improvement Zone" on the face of the plat. There shall be no construction of, or excavation for any buildings, roads, or other purposes on any part of Lot 2. **Any improvement on Tract 2 construed to be a horse or bridle path shall be considered by, but must be approved by the Board of County Commissioners. Any change shall require a unanimous vote of approval by the Board of County Commissioners.**

3. The following statement shall appear on the face of the plat:

> "Acceptance of a deed for lot within this subdivision shall constitute assent of the owner to waive the right to protest a Rural Special Improvement District for any improvements, to include dust abatement measures, to Petty Creek Road."

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the variance to the Missoula County Subdivision Regulations that all unpaved roads shall meet the County gravel road standards, including the 24-foot width requirement, for the private road that accesses the home which is a 14-foot gravel road within a 60-foot easement. The motion carried on a vote of 3-0.

Barbara Evans commented that she could not support "in perpetuity" because situations change.

Fern Hart said she could not vote for the path, although she supported the fact that the Commissioners could not do anything about the "in perpetuity."

CONSIDERATION OF: WINDY HILL ESTATES (SUMMARY PLAT)

Ron Ewart, Planner at the Office of Community Development, explained that Windy Hill Estates is a proposed two-lot single family subdivision of a 4.77-acre parcel of land located in Section 15, T13N, R20W, on the east side of Cote Lane one quarter mile south of Mullan Road. The objective of the owner/ subdivider is to create a 1-acre lot for sale and retain ownership of the remaining land. Tract 1 is to be 3.77-acres in size; currently existing on the lot is a mobile home and two barns for horses. Proposed Tract 2 will be 1.0 acres, and at this time the lot is vacant. The ground slopes downward into a swale along the south line of the property.

The property is zoned CRR-1, which allows a residential density of up to one dwelling unit per acre. The Missoula Urban Comprehensive Plan, 1990 Update, recommends a maximum density of up to 6 units per acre. To the south of Windy Hill Estates is the New Meadows Subdivision, which is zoned CRR-3; to the east is park land. El Mar Estates is located across Cote Lane to the west of this subdivision, which is a PUD with an underlying CRR-3 zoning. To the north is CRR-1 zoning on vacant land.

The Office of Community Development staff recommended that the summary plat of Windy Hill Estates be approved, subject to compliance with the following conditions:

1. Easements shall be not less than 20 foot in width unless approved by the governing body and the appropriate utility. The following statement shall be shown on the face of the plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."
>
> *Article 3-5 and 3-6, Missoula County Subdivision Regulations*

2. The developer shall file Property Owner's Articles of Incorporation and By-Laws with proof of filing with the Secretary of State, or the developer shall develop a Road Maintenance Agreement to address private road maintenance. This agreement shall be signed and executed by the owner(s). *Article 3-2(1)(H)*

3. The private access shown on the submitted plat shall be a 54-foot Public Access and Public Utility Easement. *Article 3-2(3) and 3-6.*

4. The natural drainage way across the south portion of Tract 2 shall not be disturbed. This shall be reflected in the building plans at the time of building permit issuance. *Article 3-1(2) (Hazards of improper drainage and flooding), and comments of the County Surveyor.*

5. The private road shall be paved to a minimum 24 foot width and named, and a culvert (with a minimum diameter of 15 inches and a length of 30 feet) installed at the approach. These plans shall be approved by the County Surveyor. *Article 3-2(1)(G) and (I) and 3-2(9), and comments of the County Surveyor's Office..*

6. The driveway to Tract 2 shall access the private road, and shall be paved a minimum of 20 feet back from the edge of asphalt. *Article 3-2(6), and comments of the County Surveyor's Office.*

7. The private road plans, to include plans for a fire apparatus turnaround, shall be approved by the Rural Fire Marshal. *Article 3-2(6), and comments of the Rural Fire Marshal.*

8. A fee of $50 per lot shall be contributed into the large diameter hose fund of the Missoula Rural Fire District. *Comments of the Missoula Rural Fire District Marshal.*

9. A 1-foot no access strip shall be provided on the final plat along the westerly boundary of Tract 2 and along the westerly boundary of Tract 1 north of Tract 1 of C.O.S. #4279. *Comments of the County Surveyor.*

10. The following statement shall appear on the face of the plat and in all articles of conveyance:

> "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a Rural Special Improvement District for the installation of water or sewer lines to serve this subdivision, and for any improvements to the private road or Cote Lane."
>
> *Comments of OCD staff.*

He commented on Condition #5 which referred to the paving the private road to a 24 foot width and said if the developer would like to request a variance to this width, the County Surveyor and the Fire Chief have expressed interest that they would be willing to go down to 20 feet in width.

Andy Fisher, Eli & Associates, agreed with the conditions with the exception of Condition #3. The owners have concerns labeling the road as a public access easement even though it is a private road. Their concern was that anyone could misconstrue it was their right to wander in. He said they would prefer to have this stated as a private access and utility easement.

Horace Brown, County Surveyor, commented that public right-of-way means the County has administrative powers. If it is private right-of-way, it remains with the developer. The advantage of having public right-of-way, but public road, is that in the future, if they want to upgrade the road through the RSID mechanism, it can be done. He said it is up to the developer which way they want to go. As a private road, the developers would control the use of the road. However, people could use this as a public road after five years. But for the first five years, it would be used as a private road. After this time period, the public would have to establish a use for another five years before they could have any rights on the road. He said it was not a problem whether it was public or private as far as the right-of-way.

Colleen Dowdall, Deputy County Attorney, said it was her understanding that an RSID could be done only on a County road.

Horace Brown said an RSID can be done on a public right-of-way.

Andy Fisher said if the developers want to improve the roadway through an RSID, they cannot do it if it is a private access easement.

Horace Brown said the road can remain a private road until the County accepts it.

Fern Hart said the developer does not want the road to be a public access easement.

Andy Fisher said they would prefer a private access and public utility easement. There is a County park on the east side of the property; the odds of the road going through are small. The owners of the property are building their house on the large lot. The existing mobile home will be taken away shortly. They would prefer not to have a public access because they have concerns over what rights this would give the public.

Ron Ewart explained why the staff recommended that it be a public access; there are almost four acres in an area zoned C-RR1. Three or four homes could be placed on the four acres and if there is a change in the zoning, they could put even more homes in the area. The staff has tried to look into the future. The residents could do an RSID to upgrade the access in the future.

Ann Mary Dussault asked if this meant that the back portion could not be developed because there was no public access?

Ron Ewart said it could be developed, but the road would be substandard and there would not be a mechanism to create an RSID to upgrade the access.

Horace Brown said if this was not a part of a proposed development, the people wouldn't have any control of it. The property would have to be a part of the development in order for the people to have access. He said the only advantage would be if it was public easement; an RSID could be created without asking the residents for right-of-way.

Colleen Dowdall said at some point there may be a Supreme Court decision that may say counties must maintain public easements.

Andy Fisher referred to Conditions #5 and #6. He said the problem is knowing where the road ends and the driveways begin at this time. One of the lots actually owns the property which the road sits on.

Ann Mary Dussault suggested that the decision on this subdivision be postponed because she had another meeting to attend.

Fern Hart said in the past, the Commissioners have asked that the developers consider building on part of the lot or another to allow for future splits.

Andy Fisher said the Commissioners could relate their concerns to Ron Ewart who could take the next week to work them out with the developers.

MARCH 30, 1994 (CONT.)

Ann Mary Dussault moved and Barbara Evans seconded the motion to postpone action on Windy Estates for one week to give the Office of Community Development staff time to work on the road issues. The motion carried on a vote of 3-0.

Ron Ewart said they have time to work out the language. There was sufficient time within the law.

Debbie Bauer asked if the only thing in question was the public/private access and how far the paving would go?

Fern Hart said when there have been large subdivisions, the Commissioners have required the developers to place the homes on one side or the other on the lot to allow for future growth and future divisions.

Debbie Bauer said they have no intention of subdividing further. She said they allowed for 30 feet on the north side of the property should there be any development on the four acres at some point in the future.

Fern Hart asked to see this on a plat.

There being no further business to come before the Board, the Commissioners were in recess at 3:15 p.m.

MARCH 31, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Fern Hart attended an Urban Counties Meeting held at the MACo Office in Helena. There was no Administrative Meeting.

APRIL 1, 1994

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

Plat

The Board of County Commissioners signed the Plat for Rangitsch Addition No. 4, located in the SW 1/4 of the NE 1/4 of Section 35, T13N, R20W, PMM, Missoula County, a total area of 12.91 acres (11 lots), with the owners of record being Robert J. and Helen F. Rangitsch.

Plat and Easement

The Board of County Commissioners signed the Plat for Bitterroot Meadows Phase III, a residential rural subdivision in Missoula County, located within the W1/2 of Section 2, T11N, R20W, PMM, a total gross area of 12.15 acres, with the owner of record being Larry R. Kolb, Inc. Cash-in-lieu of park land in the amount of $3,944.44 was received by the Missoula County Treasurer. Chair Hart also signed an Easement to grant Larry R. Kolb, Inc., two non-exclusive easements for sewage effluent pipes across a county road designated as Hazelwood Court, located in Bitterroot Meadows, Phase III, a rural subdivision of the County of Missoula, State of Montana, located in the 2 1/2, Section 2, T11N, R20W, PMM. The easement is created for the purpose of constructing, maintaining, and replacing sewage effluent pipes from Lot 1 located in Bitterroot Meadows, Phase III and from Lot 3, located in Bitterroot Meadows, Phase III.

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

APRIL 4, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Barbara Evans was on vacation April 4th and 5th.

DAILY ADMINISTRATIVE MEETING

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

Budget Transfer

The Board of County Commissioners approved and signed the following Budget Transfer for the Historical Museum and adopted it as part of the FY'94 budget:

no. 94-011, a request to transfer $2,250.00 from the Travel ($1,000.00) and Contracted Services ($1,250.00) department accounts - 460454 to the Travel and Contracted Services accounts - 460459 of the "Bertrand" grant revenue.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for pay period #6, pay date of 3-18-94, with a total Missoula County payroll of $454,369.96. The Transmittal Sheet was returned to the Auditor's Office.

Deed Restriction Agreements and Subordinate Deeds of Trust

Chair Hart signed Deed Restriction Agreements and Subordinate Deeds of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with downpayment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

1) Terri L. Shotgun, in the amount of $13,000.00, for property located at 4-1 Speedway in Missoula, dated March 28, 1994;

2) Brian E. and Debra L. Lee, in the amount of $17,000.00, for property located at 2629 Garland in Missoula, dated March 30, 1994; and

3) Douglas A. and Katherine M. Reinertson, in the amount of $15,178.00, for property located at 6001 Skyview in Missoula, dated March 30, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

APRIL 4, 1994 (CONT.)

Easement

The Board of County Commissioners signed an Easement from Missoula County to U S West Communications, Inc., a perpetual easement to construct, reconstruct, operate, maintain and remove such telecommunications facilities as may be required, upon, over, under and across the following described County-owned land:

> a 20 foot by 20 foot parcel located in the Southwest corner of the utility area of the El Dorado Subdivision of East Missoula, Subdivision No. 939, located in the NE 1/4, Section 24, T. 13 N., R. 19 W.

The Easement was returned to Horace Brown, County Surveyor, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

APRIL 5, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-036

The Board of County Commissioners signed Resolution No. 94-036, a Resolution of Intention to create RSID No. 8452 for the construction of a sewer collection system for a portion of Linda Vista 3rd Supplement, Missoula County, as per the terms set forth, setting the hearing date for April 27, 1994, at 1:30 p.m. The Resolution was returned to Jesse Sattley, RSID Coordinator, for further handling.

Other items included:

> the Commissioners appointed Commissioner Hart as an Acting Board Member of the Planning Policy Committee to replace Commissioner Evans, who recently resigned from the Committee.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

APRIL 6, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Evans was in Helena with members of the Reserve Street Working Group attending a meeting of the MT Highway Commission.

Monthly Report

Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending March 31, 1994.

Audit List

Commissioners Dussault and Hart signed the Audit List, dated 4-5-94, pages 4-46, with a grand total of $191,096.41. The Audit List was returned to the Accounting Department.

Monthly Report

Chair Hart examined, approved, and ordered filed the Monthly Report of Kathleen Breuer, Clerk of the District Court, showing fees and collections made in Missoula County for month ending March 18, 1994.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-037

The Board of County Commissioners signed Resolution No. 94-037, a Resolution annexing to the Seeley Lake Rural Fire District the following parcels of land, and said parcels are to be assessed a fire district levy along with other property already a part of the Seeley Lake Rural Fire District:

all that portion of GLO Lots 2 & 3, Section 32, T. 16 N., R. 14 W., PMM, Missoula County, less Certificates of Survey No. 1287 and No. 3412, lying westerly of the centerline of Montana Highway No. 83, and easterly of the low water line of Salmon Lake (the Salmon Lake Shore Sites - containing 15.05 acres, more or less).

Policy Statement - Critical Incident Stress Team

The Board of County Commissioners signed a Policy Statement defining and identifying the purpose of the Missoula Critical Incident Stress Debriefing (CISD) Team, which was organized and trained under the auspices of Missoula County's Disaster and Emergency Services, whose primary mission is to provide assistance to emergency service providers within Missoula County, and establishing an agreement clarifying what liability coverage may exist for team members when acting on behalf of Missoula County. The Policy Statement was returned to Patty Baumgart in the Personnel Office for further handling.

Amendments to Missoula County Employee Benefits Plan Document

The Board of County Commissioners signed the following amendments to the Missoula County Employee Benefits Plan Document, effective as of July 1, 1994:

1) Exhibit 7a.18 - Vision Benefits (increasing the maximum benefit payable for a vision examination from $49.00 to $55.00);

2) Exhibit 7a.10 - Medical Benefits (all physician and midwife services will be combined and subject to total obstetrical care UCR; the Plan pays medically necessary services as follows: prenatal care at 80%, and surgical services including delivery, Cesarean section, and abortion at 100%);

3) Exhibit 7a.11 - Medical Benefits (nutritional counseling for persons with diabetes covered at 80% to $250 lifetime maximum, with physician referral required);

4) Exhibit 7a.12 - Medical Benefits (covering custom orthotics at 80% to $250 per benefit year, with orders and referral required from attending physician, including MD, osteopath, or podiatrist);

5) Exhibit 7a.13 - Medical Benefits (will pay the usual and customary or reasonable charge for ambulance service fees for each accident or illness to the nearest hospital qualified to provide necessary treatment, and certified air ambulance transportation will be covered if medically necessary);

6) Exhibit 7a.14 - Medical Benefits (covers eligible chiropractic care at 80% up to $600 maximum for expenses incurred during the benefit year);

7) Exhibit 7a.15 - Medical Benefits (covers eligible outpatient expenses at 80% to maximum benefit of $2,000 per person per benefit year for all treatment of outpatient chemical dependency and mental and nervous conditions combined);

8) Exhibit 7a.16 - Medical Benefits (covers hearing aids at 80% to a maximum of $800 each to be paid no more than once in any 36 consecutive month period, with repairs for hearing aids not covered); and

9) Exhibit 7a.17 - Dental Benefits (increasing maximum lifetime benefit for services and supplies related to orthodontia from $1,000 to $1,500).

The Amendments were returned to Hal Luttschwager, Risk Manager, for further handling.

Other items included:

The Commissioners signed approval of two letters from Hal Luttschwager, Risk Manager, to the following:

1) James P. O'Brien, Attorney, denying Jack D. Kottre's claim for damages filed 3/3/0/94 against the Sheriff's Department; and

2) Terry Wallace, Attorney, denying Evelyn Hocker's claim for damages filed on 3/01/94 against the Sheriff's Department.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present was Commissioner Ann Mary Dussault.

BID AWARD: GRANDSTAND ROOF RENOVATION WITH NEW ANNOUNCER'S BOOTH (FAIR)

Fern Hart explained from information received from Sam Yewusiak, Fair Manager, that bids were opened on April 4, 1994 at 10:00 a.m. for the Fair grandstand roof and restructure with the following results:

Western Interstate	$ 89,000
Sirius Construction	$ 96,000
Iroquois Industrial	$ 61,154
Structural Systems	$ 91,000
Industrial Services Co.	$102,450

The project included complete removal of existing metal roofing, announcer's booth, walkways, stair structure and existing stairs to the grandstand area. All items shall be removed from the fairgrounds and disposed of by the contractor. The existing electrical lines shall be removed and disposed of by the contractor. The existing light standards shall be removed and turned over to the electrical contractor.

Michael Sehestedt, Deputy County Attorney, explained that in addition to the removal, there is structural stabilization, re-roofing and replacement of the announcer's booth as well. This is a complete renovation.

Ann Mary Dussault moved and Fern Hart seconded the motion to award the bid for the Fair grandstand roof and restructure to Iroquois Industrial as the lowest and best bidder, in the amount of $61,154. The motion carried on a vote of 2-0.

BID AWARD: MICRO-RECORDER READERS (2) CLERK & RECORDER

Fern Hart explained that the Clerk and Recorder's Office had requested that the bid award for the micro readers be postponed for one week.

Ann Mary Dussault moved and Fern Hart seconded the motion to postpone action on the bid award until the Public Meeting on April 13, 1994. The motion carried on a vote of 2-0.

CONTINUATION OF CONSIDERATION OF: WINDY HILL ESTATES (SUMMARY PLAT)

Ron Ewart, Office of Community Development, explained that he spent time with the developers as well as with Horace Brown, County Surveyor, discussing the conditions. The OCD staff recommended that the summary plat of Windy Hill Estates be approved, subject to compliance with the following conditions:

1. Easements shall be not less than 20 foot in width unless approved by the governing body and the appropriate utility. The following statement shall be shown on the face of the plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."
> *Article 3-5 and 3-6, Missoula County Subdivision Regulations*

2. The developer shall file Property Owner's Articles of Incorporation and By-Laws with proof of filing with the Secretary of State, or the developer shall develop a Road Maintenance Agreement to address private road maintenance. This agreement shall be signed and executed by the owner(s). *Article 3-2(1)(H)*

3. The private access shown on the submitted plat shall also be a 54-foot Public Utility Easement. *Article 3-2(3) and 3-6.*

4. The natural drainage way across the south portion of Tract 2 shall not be disturbed. This shall be reflected in the building plans at the time of building permit issuance. *Article 3-1(2) (Hazards of improper drainage and flooding), and comments of the County Surveyor.*

5. The private road shall be paved to a minimum 20 foot width to the second access point prior to issuance of a building permit for Tract 2. This requirement shall be stated in the deed restrictions for Tract 2. The requirements of the approach permit shall be complied with. The road plans and the name of the road shall be

approved by the County Surveyor. *Article 3-2(1)(G) and (I) and 3-2(9), and comments of the County Surveyor's Office..*

6. The private road plans, to include plans for a fire apparatus turnaround, shall be approved by the Rural Fire Marshal. *Article 3-2(6), and comments of the Rural Fire Marshal.*

7. A fee of $50 per lot shall be contributed into the large diameter hose fund of the Missoula Rural Fire District. *Comments of the Missoula Rural Fire District Marshal.*

8. The following statement shall appear on the face of the plat next to the 30-foot frontage of Tract 1 on Cote Lane north of Tract 2 of C.O.S. 4279:

> "Future access to Tract 1 at this location requires an approach permit from the Missoula County Surveyor's Office."

9. A 1-foot no access strip shall be provided on the plat along the west boundary of Tract 2. *Comments of the County Surveyor.*

10. The following statement shall appear on the face of the plat and in all articles of conveyance:

> "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a Rural Special Improvement District for the installation of water or sewer lines to serve this subdivision, and for any improvements to the private road or Cote Lane."
>
> *Comments of OCD staff.*

The developer requested a variance to Article 3-2(1)(I) which states that a private access lane serving three or more lots is a private road, and that all subdivisions shall meet the County road standards as stated in Section 3-2(8)(C). The standards for rural subdivisions call for a 24-foot paving width. The variance request states that the private roadway will serve 3 lots, and a 20-foot width will adequately support the traffic to be generated by the subdivision.

The staff recommended approval of the variance request, provided that conditions number 5 and 10 are adopted by the Board of County Commissioners.

Andy Fisher, Eli & Associates, commented that he and the developers agreed with the conditions. He said the drainage mentioned is a natural swale located at the bottom of the property.

Fern Hart asked about the fire equipment turn-a-round.

Ron Ewart said they would need a portion of the road to pull in and back out. It would not have to be a cul-de-sac, just a place where the fire department can turn in. Rural Fire will have to sign off on this plan when the developers file the plat.

Ann Mary Dussault thanked the developers and their representatives and the staff for their willingness to work with one another to resolve the differences.

Ann Mary Dussault moved and Fern Hart seconded the motion to approve Windy Hill Estates based on the findings of fact in the April 6th staff report and subject to the following conditions:

1. Easements shall be not less than 20 foot in width unless approved by the governing body and the appropriate utility. The following statement shall be shown on the face of the plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."

2. The developer shall file Property Owner's Articles of Incorporation and By-Laws with proof of filing with the Secretary of State, or the developer shall develop a Road Maintenance Agreement to address private road maintenance. This agreement shall be signed and executed by the owner(s).

3. The private access shown on the submitted plat shall also be a 54-foot Public Utility Easement.

4. The natural drainage way across the south portion of Tract 2 shall not be disturbed. This shall be reflected in the building plans at the time of building permit issuance.

5. The private road shall be paved to a minimum 20 foot width to the second access point prior to issuance of a building permit for Tract 2. This requirement shall be stated in the deed restrictions for Tract 2. The requirements of the approach permit shall be complied with. The road plans and the name of the road shall be approved by the County Surveyor.

6. The private road plans, to include plans for a fire apparatus turnaround, shall be approved by the Rural Fire Marshal.

7. A fee of $50 per lot shall be contributed into the large diameter hose fund of the Missoula Rural Fire District..

8. The following statement shall appear on the face of the plat next to the 30-foot frontage of Tract 1 on Cote Lane north of Tract 2 of C.O.S. 4279:

> "Future access to Tract 1 at this location requires an approach permit from the Missoula County Surveyor's Office."

9. A 1-foot no access strip shall be provided on the plat along the west boundary of Tract 2.

10. The following statement shall appear on the face of the plat and in all articles of conveyance:

> "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a Rural Special Improvement District for the installation of water or sewer lines to serve this subdivision, and for any improvements to the private road or Cote Lane."

The motion carried on a vote of 2-0.

Ann Mary Dussault moved and Fern Hart seconded the motion to approve the request for a variance to Article 3-2(1)(I) which states that a private access lane serving three or more lots is a private road, and that all subdivisions shall meet the County road standards as stated in Section 3-2(8)(C) which call for rural subdivisions to have a 24-foot paving width. The private roadway will serve 3 lots, and a 20-foot width will adequately support the traffic to be generated by the subdivision. The motion carried on a vote of 2-1.

HEARING: REQUEST FOR ABANDONMENT OF 10 FOOT PORTION OF SCHILLING STREET

Fern Hart explained from information received from Phyllis Browder, Recording Supervisor in the Clerk & Recorder's Office, that a petition to vacate "That 10' portion of the east side of the Schilling Street right-of-way from the Northwest corner of Lot 17 running the full length of Lot 17 to the Southwest corner of Lot 17" had been received.

The reasons for the request are as follows: "Abandonment of this portion of county road is necessary to eliminate an encroachment upon the county right-of-way. The width of the Schilling Street right-of-way is approximately 60 feet. The width of the Schilling Street roadway is approximately 20 feet. The Schilling Street roadway does not use the entire county right-of-way. Therefore, abandonment of the above 10 foot portion will not impact or impede the roadway."

The following landowners were notified of the hearing: Charles and Ruby Fairbanks, William L. Richardson, Raymond Tipp, Missoula Rural Fire District, and First Interstate Bank of Commerce.

Michael Sehestedt, Deputy County Attorney, explained that the Commissioners will have to postpone the decision on this issue in order to allow time for a Commissioner and the County Surveyor to review and inspect the site. He suggested that the Commissioners seek counsel from Horace Brown as to whether or not there was a 60 foot right-of-way for possible future improvements.

The hearing was opened to public comment.

Bob Sullivan, representing 1st Interstate Bank of Commerce, Trustee for the Ray Mitchell Trust, the owner of the property seeking this abandonment, said currently, Schilling is about 40 feet wide and has curbs in place. He said they are seeking to abandon the easterly portion of the right-of-way that runs along the west side of Lot 17 to alleviate an encroachment by an existing building on the portion of Lot 17. It does not affect the current roadway which has been improved. Schilling Street is not a through street; it deadends approximately a block to the north. The vacation will not affect the current use or impair the County's use of Schilling along this portion of the street.

Ann Mary Dussault said the County has agreements with both Mr. Tipp and Mr. Richardson; she asked if they had been able to contact the Fairbanks?

APRIL 6, 1994 (CONT.)

Bob Sullivan said they have been sent notification, but they have not responded.

Bill Richardson, property owner to the north, said he is in the same situation as the people requesting the abandonment. When he researched his property lines, he found that the road right-of-way was actually 80 feet wide. The roadway is currently 40 feet wide from curb to curb. He said the right-of-way goes right through his yard. He said there is plenty of roadway and couldn't see any reason the County would ever widen the road. This road is not a through street and ends a couple of blocks down the road.

Michael Sehestedt said the petition described the right-of-way as being 60 feet wide with a 20 foot roadway. He said there are some 80 foot right-of-way in this area. If this is one of these, the Commissioners traditionally have vacated 10 feet off each side, bringing it down to the standard 60 foot right-of-way. When the area was platted, the developer apparently had some plan for grand boulevards and dedicated 80 feet. However, 60 feet is more than adequate in this area. He suggested that the County Surveyor make the official plat map available to the Commissioners.

Ann Mary Dussault moved and Fern Hart seconded the motion to postpone action on the petition to vacate "That 10' portion of the east side of the Schilling Street right-of-way from the Northwest corner of Lot 17 running the full length of Lot 17 to the Southwest corner of Lot 17" for one week in order to meet the statutory requirement of having the County Surveyor and a member of the Board of County Commissioners view the request on-site. The motion carried on a motion of 2-0.

HEARING: PROPOSED CREATION OF SEELEY LAKE CEMETERY DISTRICT

Fern Hart explained from information received from Vickie M. Zeier, Clerk & Recorder/Treasurer, that a petition was received by the Clerk & Recorder's Office to create a proposed Seeley Lake Cemetery District in Missoula County.

The petition for creation has been checked and verified. The petition contains signatures of more than 20% of the citizens who are owners of land located within a proposed cemetery district and whose names appear as such owners of land upon the last completed assessment roll of Missoula County.

The area proposed for the cemetery district is the School District 34 boundaries.

The hearing was opened to public comment.

Rod Kvamme, representing the Concerned Citizens for the Creation of a Seeley Lake Cemetery District, thanked the Commissioners for their work and cooperation. Six residents were present in support of the creation of the district.

There being no further comment, the hearing was closed to public testimony.

Fern Hart mentioned that one letter had been received protesting the creation of the district from a part time resident.

Ann Mary Dussault moved and Fern Hart seconded the motion to accept the petition which was checked and verified by the Clerk and Recorder's Office, as submitted by the Seeley Lake residents for the proposed Seeley Lake Cemetery District, and order that the question be placed on the primary ballot in June. The motion carried on a vote of 2-0.

Ann Mary Dussault thanked the members of the committee who worked hard to obtain the necessary signatures to place this on the ballot.

PUBLIC COMMENT:

Dan Poe Newman, candidate for Justice of the Peace, introduced himself to the Commissioners and spoke about his concerns relative to City and County government procedures and practices.

There being no further business to come before the Board, the Commissioners were in recess at 2:05 p.m.

APRIL 7, 1994

The Board of County Commissioners did not meet in regular session; Commissioners Evans and Hart were on vacation April 7th and 8th.

APRIL 8, 1994

The Board of County Commissioners did not meet in regular session as two of the Commissioners were on vacation.

Election Canvass

In the forenoon, Commissioner Dussault, Auditor Susan Reed, and Clerk of District Court, Kathleen Breuer, canvassed the Missoula Rural Fire District Election which was held on April 5, 1994.

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

APRIL 11, 1994

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

Monthly Report

Chair Hart examined, approved, and ordered filed the Monthly Report of Sheriff Doug Chase, showing the items of fees and other collections on account of civil business in Missoula County for month ending March 31, 1994.

Monthly Report

Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending March 31, 1994.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-038

The Board of County Commissioners signed Resolution No. 94-038, a Resolution to provide for submission of the question of conducting a local government review and establishing a study commission and funding for same to the people at the primary election in 1994; and also resolving that the study commission, if authorized, shall consist of seven elected members to be chosen in the November General Election, plus an ex-officio non-voting member of the governing body or an elected official or employee of the local governing body to be named by the Board of County Commissioners prior to the organization of the study commission, and also authorizing a levy not to exceed one (1) mill to fund the study commission.

Resolution No. 94-039

The Board of County Commissioners signed Resolution No. 94-039, resolving that pursuant to Sections 7-4-2107, 7-4-2503 and 7-4-2504 of the Montana Code Annotated, as amended, effective on the first day of July, 1994, the annual salaries of certain elected County officials are fixed as follows:

Clerk of the District Court	$36,745.42
County Auditor	$36,745.42
County Surveyor	$36,745.42
County Commissioner	$38.745.42
Clerk & Recorder/Treasurer	$44,094.50
County Superintendent of Schools	$38.745.42
County Attorney	$58,257.63
County Sheriff/Coroner	$48,488.90

Resolution No. 94-040

The Board of County Commissioners signed Resolution No. 94-040, resolving that pursuant to Section 3-10-207, M.C.A., as amended, effective on the first day of July, 1994, the annual salaries of the Missoula County Justices of the Peace are fixed at $37,195.42.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

APRIL 12, 1994

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

Audit List

Commissioners Evans and Hart signed the Audit List, dated 4-12-94, pages 1-34, with a grand total of $96,850.33. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Plat

The Board of County Commissioners signed the Plat for Harmon Addition, a subdivision located in the NE 1/4 of Section 12, T. 14 N., R. 23 W., PMM, Missoula County, subject to the conditions listed on the Plat, with the owners of record being Anthony S. and Bonita J. Harmon.

Joint Proclamation

The Board of County Commissioners signed a Proclamation with the City of Missoula, jointly proclaiming April 21, 1994, as Delores Cederberg - Missoula Volunteer Day and invite all citizens to join in recognizing the value of volunteer work in promoting good citizenship and Delores Cederberg's efforts to promote a better Missoula community.

Road Easement

The Board of County Commissioners signed an Easement granting Billy Joe Olsen of 4305 Inclination Way a 30-foot wide private road easement for the purpose of spanning the parkway to reach another private easement on the north side of the Parkway in Rodeo Ranchettes Phase 2 and that this easement is to be only for Lot 1, Block 3 Rodeo Ranchettes Phase 2.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1993, between Missoula County and the City of Missoula, represented by the City Attorney's Office, whereby the City will purchase advocacy services for victims of crime and education/training services regarding crime victims' needs and services through the County's Crime Victims' Advocate, as per the terms and conditions set forth, for a payment by the City in the amount of $4,869.00, and an in-kind match of at least $1,626.00, which includes telephone, postage, photo-copies, supplies and other support services, through June 30, 1994, contingent upon receipt of grant funds from the Montana Board of Crime Control by Missoula County. The Agreement was returned to Cindy Klette, Director of Policy and Program Development, for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

Site Inspection

In the afternoon, Commissioner Hart accompanied County Surveyor Horace Brown on a site inspection for the request to abandon a 10-foot portion of Schilling Street.

APRIL 13, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Plat

The Board of County Commissioners signed the Plat for Koch's Heights, a subdivision located in the SE 1/4 of Section 35, T. 14 N., R. 23 W., PMM, Missoula County, a total area of 26.95 gross and net acres, as per the conditions set forth on the Plat, with the owner of record being Stan Koch.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #7, pay date 4/1/94, with a total Missoula County payroll of $470,855.26. The Transmittal Sheet was returned to the Auditor's Office.

APRIL 13, 1994 (CONT.)

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Sanjib Chowdhury, an independent contractor, for the purpose of assisting the Partnership Health Center with its patient satisfaction survey, as per the tasks listed and as per the terms set forth, commencing February 21, 1994, and concluding by May 31, 1994, for a maximum payment of $700.00.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and C. Curtis Blake, MD, an independent contractor, for the purpose of serving as the Partnership Health Center's Medical Director, as per the duties listed on the attachment to the contract and as per the terms set forth, commencing on January 3, 1994, through June 30, 1994, for an average of 8 hours per week for 26 weeks to a maximum of 208 hours at the rate of $50.00 per hour. The Contract was returned to the Health Department for further handling.

License Agreement

The Board of County Commissioners signed a License Agreement between Missoula County and the Resurrection Cemetery Association of Helena, whereby the Cemetery Association grants the use of a 100' x 100' tract of land located in Block 1, School Addition, Five Acre Tracts, Missoula County, to the County to be used for a project denominated as the Down Home Project Community Gardens, which is a program intended to promote and facilitate vegetable gardening by people who have no other opportunity to do so from May 1, 1994, until October 30, 1994, as per the terms set forth in the Agreement.

Replacement Bond

Chair Hart signed Bond #R18 in the amount of $20,000.00 for the County of Missoula, Medical Office Building Revenue Bond Series 1978, 7.40%, due 6/1/07 (Missoula Community Hospital Project) to replace Bond #R2. The Replacement Bond was returned to Susan O'Neil at First Interstate Bank.

Resolution No. 94-041 & Commitment Agreement

The Board of County Commissioners signed Resolution No. 94-041, a Resolution relating to the Board of Investments' INTERCAP Revolving Program; approving and authorizing participation therein and approving execution of the Commitment Agreement. Chair Hart signed the INTERCAP Revolving Program Commitment Agreement between Missoula County and the State of Montana Board of Investments for the financing of a building purchase, with the total committed amount being $492,275.00, and the term of the loan is 10 years. The documents were returned to John DeVore, Administrative Officer, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present was Commissioner Barbara Evans.

Fern Hart explained that Nightingale Estates which had been scheduled for today's Public Meeting, was postponed until April 20th.

BID AWARD: LEGAL ADVERTISING

A single bid for legal advertising was received from the Missoulian as follows:

Legal Advertising:

a.	Per unit first insertion	$8.00 (unchanged)
b.	Per unit each subsequent insertion	$6.00 (unchanged)

Rule and Figure Work:

a.	Per unit first insertion	N/A (unchanged)
b.	Per unit each subsequent insertion	N/A (unchanged)

There are no discounts. The staff recommended the legal advertising be awarded to the Missoulian for FY'95.

Michael Sehestedt, Deputy County Attorney, explained that the requirement for legal advertising is that it has to be a newspaper of general paid circulation which has been published in the County for at least on year and which is entitled to second class mailing privileges. The Missoulian , until recently, has been the only newspaper that has been published for a year and entitled to second class mailing privileges. The rate is regulated by the State Board of Printing which sets a maximum. In the absence of competition, the County generally paid the code price.

Barbara Evans moved and Fern Hart seconded the motion to award the legal advertising for FY'95 to the Missoulian based on the staff's recommendation and in accordance with the statutes. The motion carried on a vote of 2-0.

BID AWARD CREDIT CARD PROCESSING SERVICES (TREASURER'S OFFICE/MOTOR VEHICLES)

Fern Hart explained from information received from Vickie Zeier, Clerk and Recorder/Treasurer, that bids for Credit Card Processing for Missoula County Treasurers' offices for the purpose of taking credit cards for tax payments, were received from First Interstate Bank of Commerce - Missoula Branch and First Banks System - Minneapolis, Minnesota Branch. The following is a breakdown on the proposals.

A. Availability of funds
- First Interstate Bank - Next Business Day
- First Bank - Next Business Day if account closed out by 4:00 p.m.

B. 1) Support
- First Interstate Bank - Missoula, MT
- First Banks - Denver, CO

2) Training
- First Interstate Bank - At installation & ongoing as requested & anytime add'l equipment is added. First Banks - 800 # in Denver, CO.

3) Repair & Service
- First Interstate Bank - will provide a loaner within 2 hours at no extra cost until our equipment is returned
- First Banks - loaner available within 24 hours, $15.00 pick-up and return charge, rental fee $20.00 per month.

C. 1) Transaction Time
- First Interstate Bank - 20 to 30 seconds
- First Banks - 15 to 20 seconds

2) Floor limit
- First Interstate Bank - 0
- First Banks - 0

3) Daily & Monthly Reports Available
- First Interstate has daily & monthly reports
- First Banks has a weekly and monthly reports

4) Chargeback processing fees
- First Interstate Bank - No chargeback fees
- First Banks - $15.00 per transaction

5) Timeframe for initial implementation
- First Interstate Bank - 2 weeks
- First Banks - 10 to 15 Days

6) Advertising signs
- First Interstate Bank - no fee
- First Banks - no fee

D) Ability to add Discover & American Express in the future
- First Interstate Bank - yes
- First Banks - yes (American Express $.10 per transaction)

E) List of References
- First Interstate Bank provided references.
- First Banks didn't provide references.

F) Pricing
1) Equipment
- First Interstate Bank - $300.00 per terminal
$275.00 per printer
- First Banks - $365.00 per terminal
$320.00 per printer

2) Miscellaneous costs:

- First Interstate - power packs $35.00
- First Banks - none

3) Discount fees

- First Interstate Bank - 2.19% on average ticket sale of $350.00 & above
- First Banks - 1.95% (didn't provide us with their average ticket sale for this discount fee)

The Missoula County Treasurer recommended that the Board of County Commissioners accept the bid of First Interstate Bank for the following reasons:

1) Support is provided locally for both training & problems.

2) Equipment prices are less than First Banks, and if equipment goes down they provide loaner equipment within two days at no extra charge.

3) It will be necessary to have daily reports; First Interstate Bank can provide them. First Banks does not provide daily reports.

4) The immediate availability of funds. Funds would be available from First Interstate to the County by the next business day. If the office closed out by 4 o'clock, First Banks would have funds available by the next business day; otherwise usually within two business days. The Treasurer's Office is unable to meet the 4 o'clock deadline due to the Motor Vehicle computer system as well as the office hours which are between 8-5.

5) First Interstate has no chargeback fees compared to $15.00 per transaction for First Banks.

Barbara Evans moved and Fern Hart seconded the motion to award the bid for credit card processing to First Interstate Bank, based on the recommendation from the staff based on the following:

1) Support is provided locally for both training & problems.

2) Equipment prices are less than First Banks, and if equipment goes down they provide loaner equipment within two days at no extra charge.

3) It will be necessary to have daily reports; First Interstate Bank can provide them. First Banks does not provide daily reports.

4) The immediate availability of funds from First Interstate would be available to the County by the next business day. If the office closed out by 4 o'clock, First Banks would have funds available by the next business day; otherwise usually within two business days. The Treasurer's Office is unable to meet the 4 o'clock deadline due to the Motor Vehicle computer system as well as the office hours which are between 8-5.

5) First Interstate has no chargeback fees compared to $15.00 per transaction for First Banks.

The motion carried on a vote of 2-0.

At this time, Commissioner Ann Mary Dussault joined the meeting.

BID AWARD: MICRO-RECORDER READERS (2) CLERK & RECORDER

The bids for two microfilm reader/printers were opened on Monday, April 4, 1994 at 10:00 with the following results:

3M Business Products	$21,540.00	(Minolta 605Z)
Mountain States Microfilm	$13,650.00	(Canon 90)
Northwest Microfilm	$13,069.00	(Canon 90)

The staff recommended that the bid be awarded to 3M Business Products for the following reasons:

Operating costs for the Canons are more than twice as high as those for the Minolta. These machines were expected to be in operation for at least 10 years, the operating costs will be significant over that period of time.

Positive to negative and positive to positive print capabilities on the Canon require manually exchanging the toner cartridges, whereas the Minolta has an automatic bi-modal printing capability. This is a major concern for the Recording Office, as the Department does not have the staff to assist all the individuals who access the machines on how to operate them and to make sure they have the correct toner for the film they are using. The department would have to increase their staff just to assist the public with the microfilm reader/printers.

$22,000 was budgeted to purchase the microfilm reader printers; 3M Business Products is below the budgeted amount.

Vickie Zeier, Clerk & Recorder, said there are no Canons in Missoula. The Library used to have a Canon at one time, but they did not favorably recommend it. They got rid of the Canon because the maintenance costs were too high and the staff could not take the time it took to help the public with the machines, especially help with the toner cartridges. She said she has not seen a Canon, but has called around and got both favorable and unfavorable recommendations. The Clerk and Recorder's office currently have a Minolta in the office which has required very little knowledge about the machine. They have had the Minolta for three years and have been very happy with it. She explained that Missoula County has about half positive to positive, and half negative to positive film. The positive to positive is the old film and has to print the opposite way it is on the screen. She said the cartridge for older film has to be taken in and out. .

Barbara Evans asked if all of the bids met the specifications? She it was her concern that the bid may be awarded to the highest bidder when the other companies met the specifications.

Michael Sehestedt explained that the Commissioners are charged with awarding bids to the lowest and best responsible bidder. Lowest is a mathematical computation. Best, however, involves questions that range from service to cost of operation, durability, and resale values. He said it was his recommendation that when specifications are drawn up, they be drawn up so that no one is excluded. Competitive bids are the result. The bids must be evaluated in light of the cost of operation. Service and ease of operation are also issues. All of these items can be taken together and considered to determine which bid is lowest and best for County operations.

Barbara Evans expressed her concern that there was a significant difference in cost. She said she wanted to make sure no one will have grounds to take legal action against the County.

Vickie Zeier said this isn't the first time this has happened. When the Minolta was purchased in January of 1991, there was several thousand dollars difference in the bids. The cost looks larger this time because there are two machines.

A discussion ensued relating to the concerns expressed relative to the advertised bid specifications. If all the desirable items were included in the bid specifications, the Minolta would be the only machine which could be considered.

Michael Sehestedt said the advantage is that it prevents piracy by the other bidder. If the prices of the Minolta were such that the County couldn't make it up in operational savings, then the County wouldn't go with that recommendation.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bid for two microfilm reader/printers to 3M Business Products in the amount of $21,540.00 for a Minolta 605Z based on the staff report and based on the fact that there is enough money in the budget to cover the cost of the printers. The motion carried on a vote of 3-0.

HEARING: INTENT TO CREATE RSID NO 8458 (CONSTRUCTION OF WATER SUPPLY & DISTRIBUTION - SUNSET WEST AREA)

Fern Hart explained from information received from Jesse Sattley, RSID Coordinator, that the Sunset West Water System was given an administrative compliance order from DHES to solve specific water quality problems with their system in September 1992. The Homeowner's Association requested Missoula County to help solve the problems with water quality and quantity by means of an RSID. Engineering estimates for the construction of a new system including RSID costs are $445,000.00. The CDBG Program submitted a proposal for grant funds from Treasure State Grant Program for $154,000.00 and received confirmation earlier this year. With the grant proceeds, the RSID estimate would be reduced to $291,000.00 or $6,614.00 per each unit/lot for 15 years.

The required protest period has passed with no protests received. The staff recommended the creation of RSID No. 8458.

John DeVore, Administrative Officer, explained that the $6,614.00 is the total cost per lot and will be financed for a period of 15 years.

The hearing was opened to public comment.

Nancy Robert, president of homeowners association, spoke in favor of the construction and maintenance RSID. There are 44 possible lots in the area; 29 are in favor. She thanked John DeVore, Jesse Sattley, Cindy Wulfekuhle and the Commissioners for all of the help reaching the goal. She said she received a letter that morning from Jimmy Walker, a resident of the area, who indicated support for the RSID.

Celeste Jones, resident, said this community has potential for some positive growth. However, this potential is hindered because of the inadequate water supply. There has been a tremendous amount of work finding a solution to this problem. The people in this area don't have the finances or the resources to get this project done. The RSID has provided the first opportunity for a long-lasting solution. For years, This has been an impossible situation. Even though the RSID is a lot of money, the property values will increase. The residents have no other possible alternatives. She urged the Commissioners to approve the RSID.

Scott Waldron, Frenchtown Rural Fire Chief, commented that Frenchtown has recently been re-rated for insurance ratings which meant lower ratings. This area has no water and they can't do much with it. If adequate water is found, the residents will probably see a reduction in insurance rates of 10-30%. Currently, the area is supplied with a water tender; in the winter, some of the homes are inaccessible with the water tender.

Tim Porter, resident of the area for 19 years, said he has his own source of water. However, they still bring in bottled water for drinking. The project would help the whole community tremendously .

Colleen Scharberg, a resident of 17 years, said she is one of the lucky residents in Sunset West because they have water when the others don't. About 10 years ago , the water situation was really bad. They spent $7,000 to install a private well. However, she spoke in favor of the RSID because the well is not a good one, it supplies approximately five gallons a minute and is not clean water. They use the water from this well mainly for exterior use.

Doug Van Overbeck, a new resident of the area, stated he has six kids and he needs water.

Pete Peterson said they are out of water about 90% of the time. He spoke in favor of the RSID.

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

Ann Mary Dussault moved and Barbara Evans seconded the motion to proceed to create RSID #8458 for the Sunset Water system. The motion carried on a vote of 3-0.

Ann Mary Dussault thanked the neighborhood association who worked long and hard, as well as the staff who worked to find solutions and to gain the support of everyone.

At this time, the meeting was recessed as the Board of County Commissioners and was reconvened as the Planning and Zoning Commission. Present were Commissioners Fern Hart, Ann Mary Dussault and Barbara Evans. Also present were members Horace Brown, County Surveyor and Vickie Zeier, Clerk & Recorder.

HEARING: ZONING DISTRICT #25A - LINDBERGH LAKE AREA

Philip Maechling, Office of Community Development, said that property owners in Planning and Zoning District 25-A, the Lindbergh Lake/Cygnet Lake area have requested that their zoning regulations be amended to include some specific lakeshore lands under ownership by the Plum Creek Lumber Company in Section 26, and the SE quarter of Section 14, known as the "Kotchevar Property", Township 19 North, Range 17 West, Principal Meridian, Montana. This zoning district is currently in place, as amended in October, 1992. Only the inclusion of additional lands is included in this request.

The Office of Community Development staff recommended approval of the zoning request. No comments were received in opposition to the boundary amendment. The staff recommended approval of the Planning and Zoning Commission of the proposed amendments to include the additional lands.

The hearing was opened to public comment.

Lou Whitsell, chairman of the Zoning Operation for Lindbergh Lake, explained that when they originally did the zoning, it was done without the participation of Plum Creek. At the end of this hearing, representatives of Plum Creek indicated support for being included in this district. However, they couldn't be included because it was not a part of the original zoning district #25. In the meantime, Plum Creek presented the group with a letter indicating acceptance of this piece of land into ZD#25. He said with the amendment to ZD#25A, all of the shoreline, with the exception of Forest Service land, will be included in ZD#25A.

Jerry Sorenson, Land Use Manager for Plum Creek Timber Co., affirmed Plum Creek's position to be included in the zoning district as it has been prepared. The zoning is fair and consistent.

There being no further testimony, the hearing was closed to public comment.

Barbara Evans moved and Ann Mary Dussault seconded the motion to recommend that the Board of County Commissioners approve the request for the amendment to Zoning District #25A for Lindberg and Signet Lakes to include specific lakeshore lands under ownership by the Plum Creek Lumber Company in Section 26, and the

SE 1/4 of Section 14, known as the "Kotchevar Property", Township 19 North, Range 17 West, Principal Meridian, Montana. The motion carried on a vote of 5-0.

The Planning and Zoning Commission thanked Plum Creek for their participation and acknowledged the homeowners association and their tenacity in focusing their efforts to get matters resolved.

The meeting was recessed as the Planning and Zoning Commission and was reconvened as the Board of County Commissioners.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the request for the amendment to Zoning District #25A for Lindberg and Signet Lakes to include specific lakeshore lands under ownership by the Plum Creek Lumber Company in Section 26, and the SE 1/4 of Section 14, known as the "Kotchevar Property", Township 19 North, Range 17 West, Principal Meridian, Montana. The motion carried on a vote of 3-0

RESOLUTION N0. 94-042

The Board of County Commissioners signed Resolution No. 94-042, a Resolution of Intent to amend Zoning District 25A to extend the boundaries of the District. The affected property includes the W1/2 of Section 13 and all of Section 23 less Government Lots 2 and 3 in the W1/2, T19N, R17W, PMM and a 200 foot strip measured from the shoreline in Sections 26, 27 and 35, T19N, R17W on Lindbergh Lake, and the SE 1/4 of Section 14 on Lindbergh Lake.

HEARING - CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER - POWERS - PROPERTY LOCATED IN SECTIONS 10 AND 15 OF THE SW 1/4, T12N, R20W

Kathy Smith, Paralegal for the Attorney's Office, explained that Hank Powers submitted a request for a family transfer exemption for Section 10 and 15 of the SW 1/4, T12N, R20W. This is a 11.389 acre parcel and Mr. Powers proposed to transfer 5.5 acres to his mother, Louise Powers Nelson.

The history of the parcel is as follows: the parcel has existed in its current condition since at least 1972. Mr. Powers purchased the property in 1992. In 1993, the County right-of-way for a portion of Cochise Drive was vacated adding additional acreage.

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

The hearing was opened to public comment.

Hank Powers commented that he intended to sell the property to his mother to pay back a debt he had with his mother.

Ann Mary Dussault said the Commissioners are required to make a determination as to the intent of the split. The Commissioners must determine whether this is an intent to avoid going through the subdivision and review process. The family transfer exemption is allowed in this process. She asked if it was the intent of the applicant to transfer the deed to the property to his mother? She said in the past, land has been divided using this exemption, but the deeds were not transferred to the family member.

Hank Powers commented that his mother may plan to build a home on the property; she may sell the property. The deeds will be transferred to his mother.

Fern Hart asked about the access to the parcels; can both lots be accessed from Highway 93?

Hank Powers said Cochise Drive serves ten different residences. The property in question has two driveways off Cochise. However, he will build a new road on his mother's portion because the existing road is a logging road which was built in 1910.

There being no further testimony, the hearing was closed to public comment.

Barbara Evans moved and Ann Mary Dussault seconded the motion to grant approval for the family transfer exemption for Hank Powers for a family transfer exemption for the property located in Section 10 and 15 of the SW 1/4, T12N, R20W, subject to the transfer of the deeds. The motion carried on a vote of 3-0.

Ann Mary Dussault commented that the split is consistent with the zoning which is one unit per five acres.

HEARING - CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER - HARLAN - COS 215A

Kathy Smith, Paralegal for the Attorney's Office, explained that William and Gladys Harlan submitted a request for a family transfer exemption for COS 215A. This is an approximately 230 acre parcel and Mr. And Mrs. Harlan propose to transfer 5 acres to their son, Gary W. Harlan.

The history of the parcel is as follows: The Harlans have owned the parcel for over 25 years. Other than right-of-ways done in 1978 and 1981, there have been no other changes to the property.

According to the records kept by the Missoula County Surveyor's Office, the applicants have not used any exemptions to the Subdivision and Platting Act. A letter from the Harlans indicated that they have another child, a daughter, who they intend to transfer five acres to at some future date.

The hearing was opened to public comment.

Tim Wolfe, Territorial Engineering, explained that the Harlan's daughter doesn't want to live on the property in question at this time. However, she is still young and may change her mind. He said the son intends to build a house on the property and live there. The rest of land will remain agricultural. The parents currently live on the property. An easement will be created along the fence line for access. The property in question is basically unproductive land and is closer to the creek.

Ann Mary Dussault asked if it was the intent of the Harlans to transfer the deed for the five acre parcel to their son?

Tim Wolfe stated that this was their intent.

There being no further comment, the hearing was closed to public testimony.

Barbara Evans moved and Ann Mary Dussault seconded the motion to grant approval to William and Gladys Harlan for a family transfer exemption for COS 215A for a five acre parcel, based on the finding that there was no attempt to evade the Montana Subdivision and Platting Act, contingent upon transference of the deed to the property. The motion carried on a vote of 3-0.

Ann Mary Dussault explained that the split was consistent with the underlying zoning.

DECISION ON REQUEST FOR ABANDONMENT OF 10 FOOT PORTION OF SCHILLING STREET

Fern Hart stated that public comment had been taken at the Public Meeting on April 13, 1994. The 80 foot right-of-way was confirmed by Horace Brown, County Surveyor. On Monday, April 12, 1994, Horace Brown and she visited the site. She said it was her feeling that the request to abandon the 10 foot area could be granted without any problems.

Horace Brown said the improvements were already in place. Once the 10 foot abandonment is granted, the improvements will be located on the private property. A garage and shed extend approximately five feet into the right-of-way as it now exists. This is a city street and will not be used as an arterial.

Ann Mary Dussault asked about the 80 foot right-of-way.

Horace Brown said the whole subdivision was set up this way. There may have been an original intent to boulevard the streets.

Ann Mary Dussault moved and Barbara Evans seconded the motion to grant approval to the petition to vacate the following: "That 10' portion of the east side of the Schilling Street right-of-way from the Northwest corner of Lot 17 running the full length of Lot 17 to the Southwest corner of Lot 17". The motion carried on a vote of 3-0.

PUBLIC COMMENT:

Charles McGrath presented a petition in accordance with MCA 7-13-2203 which allows for petitions to be presented to the County Commissioners for sewer and water systems.

Michael Sehestedt, Deputy County Attorney, explained that once a petition is received, Vickie Zeier, Clerk and Recorder, through the Elections Office, will have to validate the petition to check to make sure it has the required signatures. Upon her verification, notice will be published for two consecutive weeks with the first publication not more than 21 days prior to the last publication, and not more than 3 days prior to the date of the hearing. At the hearing, the Commissioners will take public testimony on the proposed district and make any such changes in the proposed boundaries based on the testimony. Upon final determination of the boundaries for

the proposed district, the Commissioners shall give notice of an election to be held in the proposed district. The date of the election shall be not less than 75 or more than 90 days from the date of the final hearing on the petition. The hearing may be adjourned from time to time, not exceeding four weeks in all. It would be most effective if the Commissioners could make their final decision in the 75-90 days window so that the matter could be presented to the voters at the general election in November. He said the precise boundaries offered should be carefully examined. Because precincts have been split, it may be advantageous to present this as an entirely separate election. He said the residents would get to vote on this issue probably the same time as the November general election. He said he would have to work out an exact time schedule. This petition may take a while longer to validate because at this time the County is running school elections every alternate Tuesday. Once the Commissioners have the validated petition, the Commissioners must publish the notice for two consecutive weeks. The hearing process could stretch out over a couple of weeks. It is difficult to lay out a precise time table at this time. The statutes do not dictate a time frame for the petition to be validated. The Elections Office will proceed with due diligence.

Barbara Evans asked if the group had any specific desire that this be done prior to the general election?

Charles McGrath said they would like to expedite this as soon as possible. He wondered if a mail ballot could be done by September?

Barbara Evans said one of the concerns is cost. If this petition could run conconcurrently with another election, it would save the County taxpayers money.

Paul Laisy said they would like to have the ability to conduct educational meetings and go door to door in good weather. There is quite a bit of work that needs to be done.

Michael Sehestedt recommended that the County review the statutes as well as see exactly what they are dealing are with such as the cost involved in running this as a separate election. A list will have to be generated of the electors to verify that the petition is valid.

Ann Mary Dussault said the public hearing would probably be in July.

Fern Hart said it was going to take time to figure out the qualified voters in this district.

Ann Mary Dussault said the absolute date for an election would be the general election in November.

PUBLIC COMMENT:

Thelma Simons, resident of Spring Meadows subdivision, expressed concern about her subdivision and promises that had been made by the developer. She bought into the subdivision based upon information from a brochure that promised clean water and water testing. She stated that the State, to this date, has not approved the subdivision. The State indicated that it was up to the County to enforce this.

The brochure also promised community parks. She expressed frustration that the play structures were not safe and did not meet ADA standards. She has met with the Office of Community Development and the Department of Parks and Recreation. The staff did not consider the play structure safe. Also, the developer used rail road ties around the play structure which conflicts with the Federal regulations. It is considered a toxic substance and is not supposed to be used in public play areas. She said another concern was that the developer has not finished the park.

She stated she was told by the Office of Community Development that there was a lack of funds and the County does not have the power to enforce anything. The County can require conditions on subdivisions, but can't enforce these conditions. She stated she spoke with the County Attorney's Office which indicted that this was a breach of contract to all of the homeowners. She wondered if this was a breach of contract with the homeowners, wouldn't it also be a breach of contract with the Commissioners?

She said she was told by the Office of Community Development that the State of Montana has not adopted the ADA standards. This is a Federal law. This development has failed to live up to the Water Quality Act and the ADA, which are both Federal laws.

Barbara Evans said she has discussed this with Thelma Simons. The staff has been out to inspect the play equipment and were going to meet with Mr. Theisen to inform him that the rail road ties were not appropriate and so must be taken out. Ms. Simons has copies of various letters from not only the staff people, but Mr. Theisen's lawyer also explained the situation to her. Barbara said the County does not have the power to enforce some of these things. Some of the improvements are private and not public. The Attorney's Office has reviewed the matter and has responded. Mr. Theisen has seeded the park. There is an area in the common area that needs some "smoothing."

APRIL 13, 1994 (CONT.)

Thelma Simons said the sprinkler system is in, but the area has not been graded. The lot is too rough for a playing field. In the past, she lived in an area where the homeowners association managed the park area, but they did not build it. The development of this park was supposed to be a part of the approval of the subdivision. She stated that the homeowners association was more than willing to maintain a park, but they needed something to maintain.

Barbara Evans stated that a tremendous amount of staff time has been spent on this matter. She asked the County Attorney's Office to set up a meeting with Thelma Simons to solve this issue. Either the County has the authority to enforce these things, or they don't.

There being no further business to come before the Board, the Commissioners were in recess at 3:00 p.m.

APRIL 14, 1994

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

Indemnity Bond

Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Farmers Insurance, Jack Sangray, Agent, as principal for warrant #1068, dated 3-7-94, on the Greenough-Potomac Fire Department in the amount of $798.50 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Access and Monitoring Agreements

The Board of County Commissioners signed Access and Monitoring Agreements (11) with the following homeowners in the Linda Vista Subdivisions for the purpose of granting the County Health Department the right to enter the homeowner's property for the limited purpose of obtaining water samples from inside and/or outside the residence to be used for testing for nitrates and bacteria or order to comply with the Administrative Order issued by the State Department of Health and Environmental Sciences on September 12, 1992, directing immediate corrective action to address ground water contamination in the Subdivisions, as per the terms set forth in the Agreement, and will terminate when the Health Department notifies the Homeowner in writing that the sampling is complete:

1) Terry A. and Vicki L. Benishek, Lot 2, Block 8, Linda Vista Second Supplement;
2) Samuel J. and Adrienne Y. Kinzle, Lot 2, Block 6, Linda Vista Second Supplement;
3) Lester N. and Ruth C. Fassett, Lot 1, Block 7, Linda Vista #2;
4) Harry E. and Margaret A. Hoiland, Lot 2, Block 7, Linda Vista Second Supplement;
5) Mark C. and Dale C. Kindred, Lot 7, Block 1, Linda Vista;
6) Carl F. and Alice Thompson, Lot 5, Block 6, Linda Vista Second Supplement;
7) William R. and Jo A. Thibodeau, Lot 3, Block 6, Linda Vista Second Supplement;
8) Robert A. and Marilyn A. Thurtle, Lot 4, Block 2, Linda Vista;
9) Mark G. and Janet E. Moser, Lot 4, Block 6, Linda Vista Second Supplement;
10) Carolyn Wurth Jensen, Lot 8, Block 5, Linda Vista First Supplement; and
11) Brenda and William Elvey, Lot 3, Block 1, Linda Vista.

The Agreements were returned to the Health Department for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

APRIL 15, 1994

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

At noon, Commissioner Evans gave the Opening Remarks at the HOBY Conference being held at the University of Montana.

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

APRIL 18, 1994

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

Indemnity Bond

Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Susan Edwards as principal for warrant #52927, dated February 24, 1994, on the Clerk of District Court Trust Fund in the amount of $249.79 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Conservation Agreement

Chair Hart signed a Conservation Agreement (MPC Contract #D1435) between Missoula County and the Montana Power Company for the purchase of energy and demand savings resulting from the installation of a retrofit application for conservation or load management measures under the Montana Power Efficiency Plus Business Partners Program in the Missoula County Courthouse, as outlined in the Technical Specifications attached to the Agreement and as per the terms set forth, to be completed and fully operational by September 30, 1994, for a total lump sum payment by Montana Power Company to the County of $29,000.00. One original was returned to Art Garner in Maintenance for forwarding to Montana Power Company.

Affidavit of Correction

The Board of County Commissioners signed an Affidavit of Correction, attesting that Certificate of Survey 3958 filed on June 5, 1991, is to be amended on page 2 in the Declaration of Covenant, paragraph 4 to read:

> "Tract B-2-A shown on the Certificate of Survey No. 3958 as containing less than twenty acres, shall be used exclusively for agricultural purposes and that no building or structure requiring water or sewage facilities will be erected or utilized."

Certificate of Survey 3958 currently states that Tract B-2-B is the Agricultural parcel and is incorrect. The Affidavit was returned to Kathy Smith, Paralegal in the County Attorney's Office, for further signatures and handling.

Memorandum of Understanding

The Board of County Commissioners signed a Memorandum of Understanding for a Joint Review Process between the US Fish and Wildlife Service and Missoula County to establish a cooperative procedure concerning any development proposal generated by the private sector that would have direct or indirect effect on any of the signatories; to coordinate and communicate on issues relating to grizzly bear recovery and issues relating to other wildlife species of special concern to either party; and to assist Missoula County with better land-use planning. The Memorandum of Understanding was returned to Pat O'Herren in Rural Planning for further signatures and handling.

Other items included:

> The Commissioners voted to allow Dr. Peter Rice of the Division of Biological Sciences at the University of Montana to conduct research on a southwestern corner of the Equestrian Park related to the decay of herbicides in the soil, as per his proposal.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

APRIL 19, 1994

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Hart attended the RSVP Recognition Banquet, which was held at the Village Red Lion.

DAILY ADMINISTRATIVE MEETING

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

Modification No. 2 of Agreement

Chair Hart signed Modification No. 2 of Agreement between the Montana Department of Health and Environmental Sciences and Missoula County, modifying the terms of the Agreement between them concerning administration of a local MIAMI project (DHES No. 340075, as amended) in order to facilitate fetal and infant

APRIL 19, 1994 (CONT.)

mortality review in the state by expanding the role of the Missoula City-County Health Department and updating the poverty guidelines, as per the items and terms set forth. The Modification was forwarded to DHES in Helena.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

APRIL 20, 1994

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Evans was out of the office all forenoon due to illness. In the evening, the Commissioners met with residents of the Linda Vista area regarding RSID #8452, the Linda Vista Sewer - 3rd Supplement Sewer Project, with the meeting being held at the Linda Vista Golf Course Club House.

Audit List

Commissioners Dussault and Hart signed the Audit List, dated 4-19-94, pages 4-28, with a grand total of $116,597.70. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Notice Inviting Proposals

Chair Hart signed a Notice Inviting Proposals for RSID No. 8457, the construction of roadway improvements to portions of Humble and Sundown Roads in Missoula County, setting the bid opening for Tuesday, May 17, 1994, at 2 p.m.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Professional System Integration, Inc., an independent contractor, for the purpose of providing ADS fund accounting software package, installation, training and yearly support, as per the terms set forth, commencing April 28, 1994, and concluding on April 30, 1994, for a total payment of $4,840.00. The Contract was returned to the Health Department for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was opened at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Barbara Evans and Ann Mary Dussault.

PROCLAMATION: CRIME VICTIMS RIGHTS WEEK

The Board of County Commissioners signed the following Proclamation proclaiming the week of April 24-30, 1994, as Crime Victim Rights Week:

WHEREAS, Criminal violence preys on millions of Americans every year; and

WHEREAS, Victims of crime and their families and friends often suffer grave financial, physical, and psychological losses; and

WHEREAS, Special victim groups such as racial minority victims, victims of hate crimes, elderly victims, child victims, surviving relatives of homicide victims, victims of drunk driving, sexual assault victims, differently abled victims, spouse abuse victims, catastrophic physical injury victims, and burglary victims are often underserved in many of our communities; and

WHEREAS, All citizens of the United States deserve to be treated with dignity, compassion, and justice in times of distress; and

WHEREAS, Heretofore, such treatment has not been afforded to all victims, witnesses, and their loved ones or survivors; and

WHEREAS, Thousands of our fellow citizens, in their work and their volunteer activities, are devoting themselves to bringing a full measure of dignity, compassion, and justice to those of our friends, relatives, and neighbors who fall victim to crime,

NOW, THEREFORE, THE COUNTY COMMISSIONERS OF MISSOULA COUNTY do hereby proclaim the week of April 24 through April 30, 1994 as CRIME VICTIM RIGHTS WEEK

And urge all citizens and institutions, public and private, to support the establishment and enforcement of victim rights and services in Missoula County through participation in local and state activities commemorating those rights.

PROCLAIMED AND SIGNED, this 20th day of April, 1994.

Kristina Swanson, Crime Victims Advocate for the City and County of Missoula, thanked the Commissioners for acknowledging this important issue.

Barbara Evans moved and Ann Mary Dussault seconded the motion to sign the Proclamation declaring the week of April 24 through 30, 1994 as Crime Victim Rights Week. The motion carried on a vote of 3-0.

CONSIDERATION OF: NIGHTINGALE ESTATES - SUMMARY PLAT

Colleen Dowdall, Deputy County Attorney, explained from information received from Ron Ewart, Planner at the Office of Community Development, that Nightingale Estates is a proposed 5-lot subdivision located in the East 1/2 of Section 22, Township 12 North, Range 20 West. The property lies west of Highway 93 about halfway between Missoula and Lolo on Bird Lane and Moe Road, in the northern portion of a large (160-acre +) agricultural field. The parent parcel is 9.46 acres; the lot sizes are between 1.18 and 3.56 acres. Four lots will be for single family residential use, while a fifth will become part of an existing lot with an existing house through a boundary relocation. The purpose of the relocation is to allow ownership of Lot 4 to the owner of the existing home on Moe Road. This relocation, along with building setbacks will help to preserve open space back from the roads, while the homes will be constructed near the roads.

The property is unzoned, and the 1975 Lolo Land Use Plan recommends a density of up to 2 units per acre, if sewered. There are no public sewer facilities in this area, and there will not likely be any such service for many years. The central issue in this review is that open space should be preserved as much as possible, that development should take place only in clusters and along existing secondary roads i.e. Bird Lane, Moe Road, or the private roadway along the western edge of this large agricultural field.

She explained that once a subdivision has been received by the Office of Community Development, the agency is allowed 35 days to have the governing body act. Those 35 days expired last Monday, April 11, 1994. The subdivision regulations state that if the time expires, the applicant has a plat approved as submitted. The applicant and the staff entered into negotiations regarding a change in design which was beneficial to all involved. That change in design is before the Commissioners now as an amendment to the plat that was approved by operation of law. The plat shows five lots. Lot 4 includes property that was not previously included within the subdivision. A neighbor wants to buy Lot 4. The request will include a boundary relocation to bring him into the subdivision. His property description will be Lot 4 of Nightingale Estates. He has agreed to participate in the subdivision as all others, including waiving his right to protest the creation of an RSID. The conditions of approval of the amended plat of Nightingale Estates are as follows:

1. The following statement shall appear on the face of the plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities in, over, under across each area designated on this plat as "Utility Easement" to have and to hold forever."

Section 3-6, Missoula County Subdivision Regulations.

2. Each lot shall donate $50 into the large diameter hose fund of the Missoula Rural Fire District. *Comments of the Rural Fire Marshal.*

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

> "Acceptance of a deed for lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a Rural Special Improvement District for any improvements to Bird Lane or Moe Road. The waiver shall run with the land and shall be binding on the transferee, successors, and assigns of the owners of the land depicted hereon."

Comments of the County Surveyor.

4. The Property-owner's Association Articles of Incorporation, By-Laws, Covenants and Restrictions shall be submitted and approved by the Board of County Commissioners prior to filing of the final plat. They shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice

APRIL 20, 1994 (CONT.)

law in the state of Montana; that they contain the applicable provisions required by the Missoula County Subdivision regulations, and any provisions upon which plat approval was based or conditioned; and that these provisions do not conflict. *Section 4-2(5)(D)(4).*

5. The final plat shall show that Lot 4 includes the existing lot on Moe Road, formerly named Lot 1A of C.O.S. 4080. *Agreement between developers, OCD, and Rural Planning to avoid independent lot in central area of the subdivision.*

Tim Wolfe, Territorial Engineering & Surveying, said they have had discussions with the Office of Community Development and were happy with what was presented.

Colleen Dowdall stated that the developer has been very gracious in terms of the County's error in regards to the delay as well as agreeing to these conditions and coming in with the amended plat. She thanked the developers for their cooperation.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve Nightingale Estates Amendment to the Preliminary Plat based on the findings of fact in the staff report and subject to the following conditions:

1. The following statement shall appear on the face of the plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities in, over, under across each area designated on this plat as "Utility Easement" to have and to hold forever."

2. Each lot shall donate $50 into the large diameter hose fund of the Missoula Rural Fire District.

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

> "Acceptance of a deed for lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a Rural Special Improvement District for any improvements to Bird Lane or Moe Road. The waiver shall run with the land and shall be binding on the transferee, successors, and assigns of the owners of the land depicted hereon."

4. The Property-owner's Association Articles of Incorporation, By-Laws, Covenants and Restrictions shall be submitted and approved by the Board of County Commissioners prior to filing of the final plat. They shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the state of Montana; that they contain the applicable provisions required by the Missoula County Subdivision regulations, and any provisions upon which plat approval was based or conditioned; and that these provisions do not conflict.

5. The final plat shall show that Lot 4 includes the existing lot on Moe Road, formerly named Lot 1A of C.O.S. 4080.

The motion carried on a vote of 3-0.

Barbara Evans extended the Commissioners' gratitude for their agreeing to amend their plat and work with the staff.

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

APRIL 21, 1994

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

Indemnity Bond

Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Marie Kulawinski as principal for warrant #53448, dated 3-11-94, on the Clerk of District Court Trust Fund in the amount of $229.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

APRIL 21, 1994 (CONT.)

Deed Restriction Agreement and Subordinate Deed of Trust

Chair Hart signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with downpayment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

Dawn Martin, in the amount of $11,537.00, for the property located at 819 DeFoe in Missoula, dated April 15, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Resolution No. 94-043

The Board of County Commissioners signed Resolution No. 94-043, a budget amendment for FY'94 for Youth Court, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure		Budget
Salaries 2180-340-420146-111		$14,830
Fringe	-141	4,170
Office Supplies	-206	900
Mileage	-359	100
		$20,000

Description of Revenue	Revenue
New Grant - Community Based Intensive Care 2180-340-333013	$20,000

Pipeline Right-of-Way Easement

Chair Hart signed a Pipeline Right-of-Way Easement from Missoula County to Montana Power Company, granting a 20-foot easement on property located in the NE 1/4 of Section 13, T. 12 N., R. 20 W., PMM, Lot D, Certificate of Survey No. 1175, along the east property line for a 8" gas extension in the South Hills. The Easement was forwarded to the Montana Power Company's Real Estate Dept. in Butte.

CTEP Project Proposal

The Board of County Commissioners signed as the government sponsor for the following proposed CTEP (Community Transportation Enhancement Program) project: the Seeley Lake Highway 83 beautification project, as per the terms and projected costs set forth. The Proposal was returned to Horace Brown, County Surveyor, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

Jail Inspection

In the afternoon, the Commissioners and Mary Lou Gilman of the City-County Health Department conducted an inspection of the Missoula County Jail.

APRIL 22, 1994

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, the Commissioners participated in Head Start's Reading Fair at Whittier School by serving as guest readers; and later attended a Press Conference for the Forest Service Museum, which was held at the Courthouse.

Vickie M. Zeier
Vickie M. Zeier
Clerk and Recorder

Fern Hart
Fern Hart, Chair
Board of County Commissioners

APRIL 25, 1994

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

APRIL 25, 1994 (CONT.)

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Northern Rockies Medical Services, an independent contractor, for the purpose of providing physicians who will provide primary medical care for Partnership Health Center in accordance with the policies established by the PHC Governing Board, the PHC Director and the administrative, fiscal, and risk management policies of the County, as per the terms set forth, commencing February 18, 1994, through June 30, 1994, at the rate of $40.00 per hour.

Other items included:

the Commissioners signed a letter to Mary Vagner, Superintendent of Schools, as a follow-up to the meeting held on April 14th regarding the Literacy Mill for Adult Education, declining the option of placing the issue on the ballot, which could seriously impair the County's own fiscal position, as per the opinion of Mike Sehestedt, Deputy County Attorney.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

APRIL 26, 1994

The Board of County Commissioners met in regular session; all three members were present. Commissioner Hart attended the MACo District 10 & 11 Counties Meeting in Polson during the day. No Administrative Meeting was held.

Block Grant Report

Commissioner Evans signed the Maternal and Child Health Block Grant Report representing the services provided and expenditures made for the period from 3/1/94 to 3/31/94. The report was forwarded to the Family/MCH Bureau of the Dept. of Health and Environmental Sciences in Helena.

APRIL 27, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Dussault was out of the office all day due to illness in the family.

Indemnity Bond

Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Montana Electronics as principal for warrant #1061, dated March 5, 1994, on the Greenough-Potomac Fire Department Fund in the amount of $184.05 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Quitclaim Deed

The Board of County Commissioners signed a Quitclaim Deed from Missoula County to Chevron Oil Co., Western Div., c/o V. L. Thornburg, for SUID #0320503 - Improvements on leased land - McWhirk - Lots 1 to 3, Block Z, to cancel the tax deed recorded January 20, 1994, in Book 403, Page 2385. The Deed was returned to the Recording Office.

Notice of Sale of Bonds

Chair Hart signed a Notice of Sale of Bonds for RSID No. 8457, construction of roadway improvements to portions of Humble and Sundown Roads, Missoula County, in a total amount not to exceed $81,000.00, setting the sale date for May 18, 1994, at 1:30 p.m.

Resolution No. 94-044

The Board of County Commissioners signed Resolution No. 94-044, resolving that the 10' wide portion of the east side of Schilling Street, from the Northwest corner of Lot 17, Block 84 of Carline Addition, thence running south to the Southwest Corner of Lot 17, Block 84 of Carline Addition, being located in the SE 1/4 NW 1/4 of

Section 29, T. 13 N., R. 19 W., PMM, Missoula County, be vacated as the right-of-way is not needed, and the vacation of this portion eliminates an encroachment.

Resolution No. 94-045

The Board of County Commissioners signed Resolution No. 94-045, a budget amendment for FY'94 for Disaster & Emergency Services, including the following expenditure and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure		Budget
1000-191-420610-364	General Training	$3,000
Description of Revenue		**Revenue**
1000-191-331191	Additional EMA (Emergency Management Assistance) Funds	$3,000

INTERCAP Closing Documents

Chair Hart signed the following Loan Agreement Resolutions in connection with Missoula County's participation in the INTERCAP Revolving Program of the Board of Investments of the State of Montana:

Resolution No. 94-046

A Resolution authorizing participation in the Board of Investments of the State of Montana Annual Adjustable Rate Tender Option Municipal Finance Consolidation Act Bonds (INTERCAP Revolving Program), approving the form and terms of the Loan Agreement and authorizing the execution and delivery of documents related thereto for the General Fund Loan in the principal amount of $420,718.00 at the initial rate 4.50% per annum through February 28, 1995 and thereafter at the Adjusted Interest Rate, plus up to 1.5% per annum as necessary to pay the cost of administering the Program, as per the terms set forth, for the purchase of buildings and remaining origination fee.

Resolution No. 94-047

A Resolution authorizing participation in the Board of Investments of the State of Montana Annual Adjustable Rate Tender Option Municipal Finance Consolidation Act Bonds (INTERCAP Revolving Program), approving the form and terms of the Loan Agreement and authorizing the execution and delivery of documents related thereto for the District Court Fund Loan in the principal amount of $492,275.00 at the initial rate 4.5% per annum through February 28, 1995 and thereafter at the Adjust Interest Rate, plus up to 1.5% per annum as necessary to pay the cost of administering the Program, as per the terms set forth, for the purchase of buildings and remaining origination fee.

Resolution No. 94-048

A Resolution authorizing participation in the Board of Investments of the State of Montana Annual Adjustable Rate Tender Option Municipal Finance Consolidation Act Bonds (INTERCAP Revolving Program), approving the form and terms of the Loan Agreement and authorizing the execution and delivery of documents related thereto for the Health Fund Loan in the principal amount of $355.250.00 at the initial rate 4.5% per annum through February 28, 1995, and thereafter at the Adjusted Interest Rate, plus up to 1.5% per annum as necessary to pay the cost of administering the Program, as per the terms set forth, for the purchase of buildings and remaining origination fee.

Other items included:

1) The Commissioners voted unanimously to sign three Quitclaim Deeds to clarify ownership boundaries for Mark Denton's property in Gleneagle; and

2) the Commissioners voted to approve and sign the Amended Deed of Conservation Easement for the Gary Gallagher Living Trust.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:30 by Chair Fern Hart. Also present was Commissioner Barbara Evans.

APRIL 27, 1994 (CONT.)

JOINT RESOLUTION NUMBER 5572

The Board of County Commissioners signed a Joint Resolution No. 5572 of the Missoula County Commissioners and the Missoula City Council pertaining to cooperative management of an open space acquisition program pursuant to the County Commissioner's decision to place an $8 million conservation bond on the ballot at the June 7, 1994 countywide primary election:

WHEREAS, pursuant to Missoula City Council resolution number 5562 adopted March 21, 1994, the City of Missoula expressed support for the County Commissioners decision to place an $8 million conservation bond on the ballot at the June 7, 1994 countywide primary election; and

WHEREAS, there currently is substantial Missoula community recognition and interest in the public value of and need for preserving open space, wildlife and natural areas in both the immediate Missoula urban areas as well as more rural areas of Missoula County; and

WHEREAS, numerous citizens of the Missoula community requested a conservation bond be placed on the ballot for the purpose of generating monies to use in the acquisition of conservation easements and land in the furtherance of preserving open space, wildlife, and natural areas in the Missoula area; and

WHEREAS, in response to City of Missoula government's expressed interest in having at least an advisory role for the purpose of defining the urban area and spending conservation bond money in the urban area; the Missoula County Commissioners proposed a cooperative shared management approach for the open space acquisition program that would be utilized if the electorate approves an $8 million conservation bond which County Commissioner proposal consisted of the following:

- The policy body, for making final acquisition recommendations, will consist of the three County Commissioners, two members of the City Council, and the Mayor of Missoula. In addition, there will be seventh member, a citizen of Missoula County who will be jointly chosen by the other six.

- The policy body will be advised by a citizens' advisory committee which they jointly appoint. Members of this advisory body should be chosen to reflect a broad range of community interests in open lands; and

WHEREAS, the City of Missoula City Council concurs in and accepts the above identified County Commissioner proposal; and

WHEREAS, as part of the implementation of this City-County cooperative management of the open space acquisition program the City and County hereby agree that over the lifetime of the open space acquisition program, the geographical allocation of funds between urbanizing and rural areas should conform in rough proportion to funds that have been generated in those areas and that the City and County will endeavor through the policy body to be established pursuant to this joint resolution to identify and establish procedures, guidelines and standards that will facilitate adherence to this equitable principle, as well as provide for subsequent maintenance and necessary improvements with respect to any lands acquired with conservation bond monies; and

WHEREAS, City and County agree that among the principles that will guide the policy body will be to endeavor to achieve timely decision making and to take into account the immediacy of threat to any particular important tracts identified by the policy body.

NOW THEREFORE BE IT RESOLVED THAT the Missoula County Commissioners and the Missoula City Council hereby jointly agree to implement the cooperative open space acquisition program proposed pursuant to this resolution.

Barbara Evans moved and Fern Hart seconded the motion to adopt the Joint Resolution No. 5572 dealing with the open space bond issue. The motion carried on a vote of 2-0.

PROCLAMATION: WORKERS MEMORIAL DAY

The Board of County Commissioners signed a Proclamation naming April 28, 1994 as Workers Memorial Day as follows:

WHEREAS, every year, more than 10,000 American workers as killed on the job, and

WHEREAS, tens of thousands more are permanently disabled, and

WHEREAS, millions are injured, and

WHEREAS, another 100,000 workers die from cancer, lung disease and other diseases related to toxic chemical exposures at work, and

WHEREAS, concerned Americans are determined to prevent these tragedies by:

- Organizing Workers Memorial Day on April 28, a day chosen by the unions of the AFL-CIO as a day to remember these victims of workplace injuries and disease;
- Renewing our efforts to seek stronger safety and health protections, better standards and enforcement, and fair and just compensation;
- Rededicating ourselves to improving safety and health in every American workplace;

THEREFORE, WE THE MISSOULA BOARD OF COUNTY COMMISSIONERS, do hereby proclaim April 28, 1994 as WORKERS MEMORIAL DAY in recognition of workers killed, injured and disabled on the job.

Barbara Evans moved and Fern Hart seconded the motion to adopt and sign the Proclamation declaring April 28, 1994 Workers Memorial Day. The motion carried on a vote of 2-0.

BID AWARD: PAVING PARKING LOT - LARCHMONT GOLF COURSE

Fern Hart explained from information received from Wayne Heintz, Manager for Larchmont Golf Course, that bids were opened at 10:00 a.m. on April 25, 1994 for the parking lot paving for Larchmont Golf Course with the following results:

L.S. Jensen and Sons, Inc.	$23,985.00
Western Materials, Inc. (JTL Group, Inc.	$17,949.40

The staff recommended that the bid be awarded to Western Materials, Inc. (JTL Group, Inc.) for a total amount of $17,949.40 as the lowest and most responsive bidder. This amount is in line with the 1994 budgeted amount of $20,000, and will bring Larchmont into compliance with future ordinances.

Barbara Evans moved and Fern Hart seconded the motion to award the bid for the parking lot paving for Larchmont Golf Course to Western Materials, Inc. (JTL Group, Inc.), in the amount of $17,949.40, as the lowest and most responsive bidder. The motion carried on a vote of 2-0.

BID AWARD: TITLE SEARCHES - CLERK & RECORDER

Fern Hart explained from information received from Phyllis Browder, Supervisor in the Clerk & Recorder's Office, that bids were opened Monday, April 25, 1994 at 10:00 a.m. for the bid award for interest and ownership searches for tax deed land parcels with the following results:

First Montana Title Co.	$75.00 flat rate per parcel

The staff recommended that the bid be awarded to First Montana Title Company.

Barbara Evans moved and Fern Hart seconded the motion to award the bid for the ownership searches for tax deed land parcels to First Montana Title Company as the only bidder. The motion carried on a vote of 2-0.

HEARING: INTENT TO CREATE RSID NO. 8452 - CONSTRUCTION OF SEWER COLLECTION SYSTEM FOR PORTION OF LINDA VISTA 3RD SUPPLEMENT

Fern Hart explained from information received from Jesse Sattley, RSID Coordinator, that the Linda Vista 3rd Supplement Sewer RSID #8452 was created in July of 1993. However, since then, the staff has had to increase construction estimates to reflect some unanticipated repairs to a system originally thought to be usable. The increased costs made it necessary to adopt a new Resolution of Intention and set a new public hearing date to allow discussion with the freeholders in the district. All MCA statutes have now been addressed with this public hearing.

She said one letter of protest was received. The Commissioners attended a lengthy public meeting last week in the area in an effort to try to answer the residents' questions.

The hearing was opened to public comment. There being none, the hearing was closed to public testimony.

Barbara Evans moved and Fern Hart seconded the motion to create RSID 8452 for the construction of the sewer collection system for a portion of Linda Vista 3rd Supplement. The motion carried on a vote of 2-0.

HEARING: ROSSIGNOL ORCHARD TRACTS PRELIMINARY PLAT

Ron Ewart, Planner at the Office of Community Development, explained that Rossignol Orchard Tracts II is a proposed 57 lot residential subdivision with a total acreage of 12.61 acres. The proposed subdivision is located north of Farm Lane and east of the Bitterroot Branch Montana Rail Link in Lolo. Nine of the lots may be proposed as multi-family residential development with the remainder being single family residential. The proposed development adjoins the Rossignol Orchard Tracts subdivision to the north. Rossignol Orchard Tracts is a 46 lot subdivision that was approved in April, 1993 and is currently under construction. Lakeside Drive, which accesses Tyler Way, will serve both subdivisions as a through street to Farm Lane.

The average lot size of Rossignol Orchard Tracts II is approximately 7,500 square feet, and the over-all density is approximately six residential units per acre. This area is unzoned, and the 1978 Lolo Land Use Plan recommends that the area is appropriate for residential development at a density of up to six units per acre. The development is within the RSID 901 Lolo Sewer and Water District, and connection to the system is planned.

On April 5, 1994 the Missoula Consolidated Planning Board voted 5-0 to approve the Preliminary Plat request for the above named item, subject to the following conditions:

1. Grading, drainage, erosion control, street, and sidewalk plans shall be approved by the County Surveyor. *Article 3-2 and 3-4.*

2. Lots 9, 10, 23, and 24 as shown on the submitted plat shall be dedicated to Missoula County for a park and the balance of the value of the one-ninth of the combined area shall be cash-in-lieu. *Article 3-8(E)(3). As recommended by Planning Board.*

3. The developer shall initiate an RSID to pave Farm Lane along with a 5 foot walkway from Lewis and Clark Drive to the east property line of the subdivision. If the RSID fails, the developer shall waive the right to protest a future RSID for paving and a walkway. The street and sidewalk plans shall be approved by the County Surveyor and the railroad crossing plans by the Montana Rail Link. *Article 3-2(3), Article 4-11(A)-Public Health and Safety. As recommended by Planning Board. The County Surveyor recommends paving.*

4. Any access of the lots to Farm Lane shall be approved by the County Surveyor. *Comments of the County Surveyor.*

5. An agreement between the RSID 901 Board of Directors and the developer shall be signed stating that water and sewer capacity exists to serve the subdivision and that the subdivision is allowed to connect with the District, prior to filing of the final plat. *Article 3-7.*

6. Additional right-of-way shall be dedicated to the County along Farm Lane in order to create a 60-foot right-of-way, subject to approval of the County Surveyor. *Article 3-2(3), and comments of the County Surveyor.*

7. The Property Owner's Association Articles of Incorporation, By-Laws, and Covenants shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict. *Article 4-2(6)(F)(4)*

9. Any multi-family lots shall have a minimum 4050 square feet of lot area per family, and multi-family lot plans shall be approved by the Zoning Officer. The over all density for this subdivision, combined with Rossignol Orchard Tracts I, shall not exceed 6 residential dwelling units per acre. *Comparable to C-R1 zoning; Lolo Land Use Plan density recommendation.*

The following conditions were required for Rossignol Orchard Tracts, that apply to Rossignol Orchard Tracts II.

10. Soil infiltration (commonly called grassy swales) shall be placed in the right-of-way on the internal subdivision roads to collect stormwater runoff, if feasible. The plans for grassy swales shall be approved by the City/County Health Department and the County Surveyor.

11. Fire hydrant locations shall be approved by the Missoula Rural Fire Chief. The cul-de-sac turn-around radius' shall be approved by the Missoula Rural Fire Marshal.

12. The developer shall include the following addition to the covenants:

New Section ADD: Gardens and ornamental shrubs attract wildlife thereby creating the potential for adverse human/wildlife encounters. It is recommended that homeowners obtain a copy "Living with Wildlife" either from the Office of Community Development or the Missoula County Rural Planning Office.

The applicant requested a variance to Article 3-2(3) of the Missoula County Subdivision Regulations which require that the right-of-way width for local streets is 60 feet. The proposed right-of-way width for Lakeside Drive is 54 feet.

The other three streets within the subdivision have a right-of-way width of 54 feet, which meets regulations because they are cul-de-sac streets. Lakeside Drive is a through Street between Tyler Way and Farm Lane. The right-of-way width for Lakeside Drive in Rossignol Orchard Tracts, the subdivision to the north, is 54 feet. The County Surveyor recommends that the 54-foot right of way continue and extend into this subdivision. Subtracting the space within the right-of-way for street, curb, gutter, and sidewalks, there is still 5.5 feet to the property line from the back of sidewalk and an additional 10 feet of public utility easement within the lot adjacent to the right-of-way. For these reasons, staff recommends that the variance request be granted to allow Lakeside Drive to be placed within a 54-foot right-of-way as opposed to the regulation 60 feet.

Nick Kaufman, WGM Group, representing Ken Allen, the developer, explained the location of Rossignol Orchard Tracts as being in located on the east side of Highway 93 in Lolo. Prior to the spring of 1993, the Rossignol family owned the entire piece of property in question. In 1993, Ken Allen made an offer to purchase the north half of the property; he did a single subdivision called Rossignol Orchard Tracts which was approved in May of 1993. During the review process, several issues became apparent. The Lolo Comprehensive Plan, adopted in the 1970's, designated the area as residential--six dwelling units per acre. He spoke also about the large piece of land owned by the school district. At the time Orchard Tracts No. 1 was done, they requested that the Commissioners allow cash-in-lieu of park land because there were other areas where children in this community could play without crossing Highway 93. When the land became available for Orchard Tracts No. 2, one of the criticisms was that the lots were too small. As a result, the lot depths in No. 2 were increased by 10 feet. Once again, they proposed cash-in-lieu of park land because one acre of land would not be large enough for what is required for a play area for the community on the east side of Highway 93. There are few parks in the Lolo area which are maintained, with the exception of the school and the community center area. A lot of what is happening in Lolo is a result of no funding. Speeding traffic on Tyler Way is a result of inability of law enforcement to control the speed of the residents of this area. The park areas in Lolo are not maintained due to lack of funding. He said Tyler Way is a long, straight road that is not controlled by stop signs which makes people speed down the road. However, they designed the interior road to Rossignol Orchard Tracts between Tyler Way and Farm Road to curve to slow the traffic.

There is an existing building to the east of Rossignol Orchard Tracts No. 2 that is a multi-family building. The large field to the east is owned by Frank Cour. He said it was their intent to do a subdivision that meets the density requirements of the Lolo Comprehensive Plan, provide for mixed housing types--both single family and multi-family. The bottom lots of the subdivision have been proposed as multi-family units. Those lots range from 7,000-10,000 square feet and were specifically designed to be deeper lots. This will serve as a buffer for future traffic along Farm Lane. There is much land along Farm Lane that could potentially be developed. Multi-family units can better mitigate noise and impacts adjacent to this street.

He detailed the conditions of approval. He referred to Condition No. 2 which required park land dedication, and said that one of the crisis facing Missoula County is a housing crisis, not a park land crisis. The residents of this county cannot maintain the park land available now. The Missoula County Park Board recently commissioned Candis Van der Poel for $30,000 to look at inventory of park lands. There are over 500 parcels of park land in Missoula County and most are not maintained in any fashion, nor are there any funds to improve those. He said Rossignol Orchard Tracts No. 1 contributed $3,222.22 to the cash-in-lieu fund. No. 2 would contribute approximately $4,195.62 for a total of approximately $7,400.00 in cash contribution. He proposed language for Condition No. 2: "The value of one-ninth of the combined lot area shall be cash-in-lieu."

He referred to Condition No. 9 which detailed the minimum lot sizes for the subdivision. He said the issue is a housing issue. This subdivision is an opportunity to build residential dwelling units which conform to the density of the Lolo Comprehensive Plan. The subdivision includes single family residential and a multi-family element. The Commissioners will make the decision whether those housing units stay in this project. He said the staff proposed that the lots have a minimum square footage of 4,050 square feet per family unit and the density shall not exceed six units per acre on Rossignol Orchard Tracts I and II. He said they agree that six units per acre should not be violated because that is what the Comp Plan calls for. However, they did have a problem with the minimum square footage of the lots. This property is inside the 4 1/2 mile jurisdiction area of the Missoula City Building Department and therefore the City of Missoula off-street parking ordinance applied. Anything they did with multi-family units would have to meet the off-street parking standards. He gave the example of the R2 district which allows duplexes and required a minimum lot size of not less than 2,700 square feet per dwelling unit. For duplexes, it would be 2,700 square feet per dwelling unit, not 4,050 square feet. In the next zone, R3, the square footages stay the same, but delineates the square footages as follows: 1,000 square feet for an efficiency apartment, 1,500 square feet for a one bedroom, 2,000 square feet for a 2 bedroom,

2,500 square feet for a 3 bedroom unit. He proposed that Condition No. 9 be changed as follows: "Any multi-family lots shall have the following minimum square feet of lot area per bedroom: 1,500 square feet for a one bedroom; 2,000 square feet for a two bedroom; and 2,500 square feet for a three bedroom. Efficiency apartments shall not be allowed." This will place a realistic square footage per bedroom and based on occupancy. The language will make sure that the zoning officer will approve the plans and that the overall density will not exceed the current Lolo Comprehensive Plan. He said if the Commissioners approve the square footage of 4,050, this will allow only five duplexes; no multi-family housing. The lots along the east side would be so small they could not put any multi-family units on them because the lots would be only 7,000 square feet.

Barbara Evans asked where the parking would be located on the small lots?

Nick Kaufman said the lots are not that small. The lots can accommodate a four-plex, parking and an adequate yard area similar to four-plexes in Missoula that front onto an open courtyard and have parking behind the buildings which is screened from the street. In this case, they would work with the Surveyor's Office for access onto Farm Lane. He said if the Commissioners adopt the recommendation proposed by the Planning Board, there may as well be a condition which states that duplexes shall be allowed on the bottom tiered lots. The Commissioner's own staff is working on the affordable housing issue trying to obtain grants because the private sector is not providing the number of housing units needed.

He recommended that Condition #10 be deleted because grassy swales were not feasible in the first subdivision and will not be feasible in the current proposed subdivision. He said until the Health Department can come up with some realistic standards for streets that have curbs, gutters and sidewalks and the use of grassy swales, they simply will not be able to be incorporated.

He thanked the Lolo Community Council, the County staff and the Commissioners.

Ken Allen showed slides of the various parks and dedicated park land in Lolo. He explained that there are over 40 acres of park in Lolo as well as common areas. He said approximately 14 parks make up those 40 acres. He showed that the majority of the park land was not maintained and hadn't been maintained, some for over 20 years. The problem of no maintenance has been created by a lack of funding. Groups have tried to improve some of the parks, but because lack of continued funding or vandalism, the parks haven't been kept up. The Lions Club has helped with a few of the parks in Lolo, but it has been discouraging because there is so much to do. Most of the parks in Lolo are weed patches and fire hazards, or are undevelopable because of slope. The parks that are undevelopable make good open space, but aren't conducive to playground areas. Some residents mow adjacent common areas or park land and also use the property for storage.

Barbara Evans said another park that is extensively used is located at the end of Red Fox Lane, but is not developed or maintained.

Ken Allen said he took the slides to show how unmaintained the Lolo park system was. He proposed cash-in-lieu of park for this subdivision. He also offered $10,000 in matching funds to any money that the County contributed toward the parks in the Lolo area for maintenance, improvements, as well as weed management. He said he was very dedicated to the idea of developing the existing parks in Lolo instead of having weed patches. He said the offer was good for a twelve month period from the day the subdivision was filed.

Nick Kaufman said some of the parks have been around for 20 years waiting for someone to maintain them. He said that with the cash-in-lieu monies available from the two Orchard Tracts subdivisions along with the $10,000 matching funds from Ken Allen and the County's match, there could be substantial funds available for maintaining existing park land.

A discussion ensued relative to the matching funds offered by Ken Allen. The offer would be good for weed management as long as an organized group was set up to oversee the control of the weeds and the funds. It is approximately a three year process to get rid of knapweed.

The hearing was opened to public comment.

Bill Terell, Vice Chairman of the Lolo School Board, and President of the local Lion's Club, spoke in favor of the subdivision because it is a planned development with paved roads and will be hooked onto the Lolo Sewer and Water District. He said they need to do anything they can to get planned developments in the Lolo area instead of piece-meal developments. The School Board has been involved in the subdivision process through the Community Council. He said their main concern with Rossignol Orchard Tracts is the available park space. The parks that the community already has can't be taken care of. The local Lions Club has tried for years to maintain some of the parks, but it is difficult to do because of the number of parks and the problem of vandalism. Also, the availability of water is one of the limiting factors in maintaining and developing parks as well. He asked if there was some way to use the cash-in-lieu monies from the Lolo subdivisions for the development and maintenance of Lolo parks? As a co-founder of youth group in Lolo, he said high school and middle school kids are eager and anxious to do some community service work. However, they lack the funding

to improve and maintain the parks. He said some of the areas have talked about setting up a maintenance RSID to improve and maintain the existing parks. The local Lions Club members consisting of five or six people try to maintain some parks, but it is discouraging due to the amount of work to be done. He said the school owns a twenty acre piece across from the development on Farm Lane, but this has been leased for horse pasture. At this time nothing can be done to develop the property. He said they are in the process of building soccer fields on the back five acres of the community center.

He said they do not need any more parks in Lolo. It would be nice, but the residents cannot take care of the existing parks. He said he would be more than happy to chair a committee to try to maintain the parks in Lolo.

Barbara Evans, as a member of the County Park Board, offered suggestions to Mr. Terell.

Peter Templeton, Co-Chair of the Interim Lolo Community Council, said no one on the Council was against the proposed subdivision. He said some items however, were of concern such as the water system, the school system, the matter of street lights and proper safety matters, park designations, and issues surrounding railroad crossings. The parks are issues that the residents of Lolo are concerned with.

He said the area is designated as six units per acre in the Lolo Comprehensive Plan. He said there is a dispute relative to semantics: how is the six units per acre figured? Is it structures as opposed to residences? The Lolo Comp Plan must be referring to six residences per acre. He wondered how the rules could be changed in the middle of the procedure. The apartments down the street were built prior to the 1978 Lolo Comp Plan. If the Commissioners don't address this as residences, but as units or multi-family units, this will radically change this entire area. It is important to focus on the intent of the Lolo Comp Plan. There is a separate category for 16 units per acre. There are two separate designations in the Comp Plan; they are not combined.

Barbara Evans tried to clarify what Mr. Templeton meant. She said according to the subdivision regulations, the aggregate total of units proposed in a subdivision and divided by the total acreage to get the units per acre.

Peter Templeton asked if the regulations consider an apartment building with six residences on an acre of land, six units per acre? He agreed with Barbara Evans' interpretation of the subdivision regulations, but wondered about the square footage.

Barbara Evans said the developers have computed the number of units using the square footage requirements of the City.

Fern Hart said a unit is a single family residence. She asked how many units were in a four plex?

Colleen Dowdall, Deputy County Attorney, said four units or four residences. She said if there was a duplex and a four-plex, a developer would need one acre.

Nick Kaufman said the overall density of this subdivision will not exceed six units per acre. A portion of it may have some duplexes, three-plexes or four-plexes. If the total acres are divided into the number of units, the total density will not exceed six units per acre. Typically, when an area is designated 16 units per acre, this is a designation for multi-family dwellings. When there is a designation of six units per acre, this is a designation for one and two family dwellings, townhouses, and condominiums, as long as the overall density does not exceed six per acre.

Fern Hart said the units are still four for each family.

Nick Kaufman said if the total number of families is taken and divided by the acreage, the density will not exceed six units per acre. The gross density of the entire subdivision will not exceed the recommended density.

Colleen Dowdall said this is typically how the County considers the density for the subdivision.

Peter Templeton said it was more the understanding of the people in the area that there is a considerable difference between an apartment building and a residence even if the total number of people ends up the same. It is a general, overall idea that once the horses start changing in the middle of the game, it will change the whole complexion of the area. He said the area will be changed from single family residential to multi-residential units. This needs to be addressed because this decision will change a perceived view of how the Lolo Comp Plan is working. The residents of Lolo perceive a difference between six houses and one unit with six families.

Barbara Evans said regardless of the way people perceive the Comp Plan, the fact remains that the Comp Plan calls for six units per acre. However this is configured, it is still six units per acre in the aggregate.

Peter Templeton said he understood this, but it is also important to look at how the residents will perceive this whole issue.

He referred to the issue on parks. The developer does not want to contribute to the park situation. But the residents of Lolo need more land for parks on this side of the Highway. He said people are very upset that money from cash-in-lieu goes into a county-wide fund and Lolo doesn't see the money from Lolo subdivisions. He said children don't adhere to adult views and standards of parks. Children play in areas that don't look good to adults. The fact is, these parks are used and are needed. There is a need for an east side park. The maintenance issue is not the children's problem.

Fern Hart asked if he was saying that the residents need an eastside park over and above the existing parks on the east side?

Peter Templeton said from the two public meetings that have been held relative to this issue, they have found that people want a well-defined park; something that has a center around it.

A discussion ensued relative to the property owned by the school on the east side of the highway. It was concluded that this parcel was being leased for use as horse pasture. The five acre piece which is being developed into a soccer field is located behind the Lolo Community Center.

Peter Templeton said this is an important subdivision for Lolo. The conclusions drawn from this subdivision are conclusions which can be applied to the next subdivisions that come in. He suggested that more time is needed to spend on some of the issues to get them straight in everyone's minds. He said the proposed changes in the wording in the conditions should be discussed further. He said he wanted to see further clarification regarding units and residences. The people in the community will be surprised at the changes. Most people thought that the 16 units per acre meant apartments and six units per acre meant single family residences. There are some things that need to be addressed and clarified.

Barbara Evans stated that there is park money available from the County Park Board, of which Lolo has gotten some. She said the reason Lolo hasn't received more money is because no one has requested it. She invited Peter Templeton and Peggy Templeton to meet with her to get more information about this.

Peggy Chilcote, Co-Chair of the Interim Lolo Community Council, tried to clarify what Peter Templeton had been trying to explain. The area in question is designated as six units per acre in the Lolo Comprehensive Plan. She referred to the Comp Plan map which showed the locations of the six units per acre and the 16 units per acre. She said the developers want to move multi-family units into residential family areas. She said in 1978, the Plan probably didn't foresee the juggling of words. In 1978, the planners set out an area for multi-family. This should clarify the difference: one unit was meant to be a single family dwelling. There are areas designated for multi-family. She said the staff report talks about combining Phase I and Phase II to compute the density. Phase I shouldn't have any bearing on the proposed subdivision at all.

Nick Kaufman explained that the Planning Board recommended that the two subdivision densities be combined.

Peggy Chilcote mentioned that when the railroad crossing was opened at Tyler Way, a new set of problems occurred such as excessive speeding. She suggested that a four-way stop sign be placed at the intersection of Tyler Way and Lakeside Drive to slow the traffic. Also, she said the park located at Cap de Ville and Ridgeway would be receiving money from donated funds for improvements. The residents were sponsoring fund raising activities for this purpose. The residents also are looking into the possibility of setting up a homeowners association to maintain the park. She referred to the parks located on the east side of the highway near the lakes; the residents adjacent to the parks consider the parks or common areas to be private and do not like people going through them. The children do not use these parks. The kids really do not care about weeds--they use the parks whether they are developed or not. The residents are concerned about how to get money in order to maintain or improve the parks. Once the land is gone, there won't be any left to make parks. If the proposed subdivision is required to dedicate land instead of give cash-in-lieu, there will be a park to develop in the future.

Ron Ewart explained that the Planning Board voted to amend Condition #9 which originally read, "any multi-family lots shall have a minimum of 4,050 square feet of lot per family. The overall density for this subdivision shall not exceed six residential dwelling units per acre." After quite a bit of discussion, the Planning Board added the language relative to combining the densities of the first subdivision with the proposed subdivision.

Fern Hart wondered if this language was added because of adhering to the 4,050 square feet of lot area per family so that both of the subdivision's densities could go together.

Colleen Dowdall said although she was not at this particular Planning Board meeting, it is important to know that two issues should be looked at: density and lot size. Some of the zoning districts have minimum lot sizes and densities, but some only have densities without the restriction as to a minimum lot size. The OCD staff's original recommendation was to do both, but only consider Rossignol II for the density. She said it was possible this was a compromise in the minds of the Planning Board members.

Ron Ewart said the proposed subdivision has 57 lots. If Lots 41-49 are made into four-plexes, there would be a total of 84 units. There is a little over 12 acres. The overall density of Rossignol II would be almost seven units per acre. In order to keep the density down to six units per acre, the two subdivisions would have to be combined. He said the Lolo Land Use Plan is not specific and there is no strong language which indicates that the six units per acre would have to be single family housing. There is room for judgment. He explained the reasoning behind the 4,050 square feet: it was a compromise to allow the developers to put in some multi-family units. The staff looked into the zoning designations and considered the CR-1 zone because it is a County designation and allows up to eight units per acre and some multi-family. The R-3 zone is a higher density City zone. The CR-1 zone is the closest zoning to correspond to this area. They also looked at the area required for parking. The 9,000 square foot lots may be more appropriate; the 7,000 square foot lots may take a little bit more work to be able to structure the parking.

Nick Kaufman said there are 12 acres in the proposed subdivision. The Lolo Comp Plan allows six units per acre for this area which would figure out to be 72 units on this acreage. However, when they did the first Rossignol Orchard Tracts people said the lots were too small. The lots in the proposed subdivision are larger. To try to get back to 72 units, they proposed allowing multi-family on some of the lots. If the Commissioners do not wish to put in multi-family, then the lot sizes drop to 5,400 square feet with no park, to get to the density of almost six units per acre. If the Commissioners wish to put a park in, this would further diminish the lot size or cause the density to come in at approximately less than six units per acre. He said they shouldn't be coming in at four units per acre; in order to get six units per acre and have the larger lots, they need to put the multi-family units in. If they can't have multi-family, they will have to come back in with a new subdivision. Since January of this year, the proposal included multi-family housing in the subdivision. The proposal is to have large single family lots mixed with multi-family units. If a park is required, they will have to go down to 5,400 square foot lots.

Colleen Dowdall said the developers do not plan to put in all four-plexes because it would exceed six units per acre. The developers also did not plan to combine the densities in Rossignol Orchard Tracts I and II. The developers wish to keep the density at 72 units.

Nick Kaufman said the Planning Board recommended combining the two subdivision densities. The residents in Lolo want bigger lots, but no multi-family; the density of six per acre will not work unless multi-family is worked in. He said they tried to add a component which would allow two, three and four plexes to get the density they wanted. The minimum square footage of 4,050 square feet will not allow the number of units they are proposing. However, if the Commissioners go with his recommended square footages with a cap of six units per acre, then six units per acre can be accomplished.

Peter Templeton said the developers want to put in as many units as they can. However, while the people of Lolo have been open minded about this whole issue, they do not want the allowed density; the proposed subdivision will be the most dense subdivision in this area. He said the Commissioners do not have a commitment to allow development at the top end. He said if the door is opened to this kind of development with multi-family and single family, then there will be further development like this. The Commissioners shouldn't feel they are under an obligation to have to allow for top end development. He said this is what is starting to happen.

There being no further public testimony, the haring was closed to public comment.

Barbara Evans commented that she has always said that she doesn't like to change the rules in the middle of the game. The Lolo Comp Plan stated, "Residential and neighborhood functional objectives are: to develop patterns of neighborhood subcommunities; clusters of housing types, surrounding nuclei of school, church, store or park, or combination of these; neighborhoods should be semi-integrated in terms of structure and size, etc.; generally avoid inclusion of residential units in proximity to heavy commercial or industrial use." She said in the past, when trying to find the desired density and units per acre, the total number of units is divided by the acreage. She said she is not comfortable changing this in mid-stream. She wondered if there are very many multi-family units in the area?

A discussion ensued relative to the number of multi-family units in the area. It was concluded that a number of multi-family units have been built over the past few years.

Fern Hart said the existing multi-family units are rental properties.

Barbara Evans said she didn't want to deviate from the Lolo Comp Plan. Unless the County's legal counsel stated that this interpretation is wrong, then she didn't want to change how this was done.

Peter Templeton said the serious question is the combining of the two subdivision densities.

Barbara Evans said that this had been clarified: the developers do not want to do this. The Planning Board recommended this. She said the issue of square footages is a separate issue. She said the Lolo area needs more

multi-family. The goal of the Lolo Comp Plan stated that a mix of uses and types of structures is desirable. She said as long as the Commissioners wouldn't be going against the Comp Plan, she would support a motion to approve the subdivision. The Commissioners are in a tough spot--on one side the Commissioners have given "lip service" to the need for affordable housing; on the other side, the County has demanded things that negate getting affordable housing. Something has to give. As long as the Comp Plan is not being violated, she was willing to go with this subdivision. The City rules will have to be followed in this area in regards to off-street parking. She said if there weren't the larger lots, then parking would be of concern.

Fern Hart asked Colleen Dowdall if there was a concern about where multi-family is marked on the plan?

Colleen Dowdall said she did not have a concern with putting multi-family where it is being proposed. There is a twelve-plex immediately adjacent to the proposed subdivision which made the subdivision comply with the surrounding uses. She said as long as it meets the density of six per acre, it shouldn't be of concern.

Fern Hart said the developers pointed out one of the most prevalent problems the County is facing, that being land dedication for parks. In the past, the County has been given very undevelopable land for park. However, as the County becomes more crowded, these areas become almost a haven. She said she doesn't favor giving up the existing parks; someday they may be a welcome respite. The Planning Board worked hard on their recommendation. One of the things the Board left the Commissioners was the decision of park dedication as well as the lot size. The Planning Board recommended four lots be dedicated as park. However, this would make the lots smaller which was one of the frustrations that the Lolo residents expressed. The residents will never get all they wish for. The 4,050 square feet for lot size is needed. When multi-family units are placed on small lots, it is very close to ugliness in that it contributes to the "junkiness" of an area. She said grouping multi-family into a "ghetto" is a mistake. Lolo will be a choice area for housing.

Barbara Evans made a motion to approve Rossignol Orchard Tracts No. 2, based on the findings of fact and subject to the following conditions:

1. Grading, drainage, erosion control, street, and sidewalk plans shall be approved by the County Surveyor..

2. ~~Lots 9, 10, 23, and 24 as shown on the submitted plat shall be dedicated to Missoula County for a park and~~ the balance of the value of the one-ninth of the combined area shall be cash-in-lieu.

3. The developer shall initiate an RSID to pave Farm Lane along with a 5 foot walkway from Lewis and Clark Drive to the east property line of the subdivision. If the RSID fails, the developer shall waive the right to protest a future RSID for paving and a walkway. The street and sidewalk plans shall be approved by the County Surveyor and the railroad crossing plans by the Montana Rail Link.

4. Any access of the lots to Farm Lane shall be approved by the County Surveyor.

5. An agreement between the RSID 901 Board of Directors and the developer shall be signed stating that water and sewer capacity exists to serve the subdivision and that the subdivision is allowed to connect with the District, prior to filing of the final plat.

6. Additional right-of-way shall be dedicated to the County along Farm Lane in order to create a 60-foot right-of-way, subject to approval of the County Surveyor.

7. The Property Owner's Association Articles of Incorporation, By-Laws, and Covenants shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict.

9. Any multi-family lots shall have ~~a minimum 4050 square feet of lot area per family, and~~ **the following minimum square feet of lot area per bedroom: 1,500 square feet for a one bedroom; 2,000 square feet for a two bedroom; and 2,500 square feet for a three bedroom. Efficiency apartments shall not be allowed.** Multi-family lot plans shall be approved by the ~~Zoning Officer~~ Board of County Commissioners. The over all density for this subdivision~~, combined with Rossignol Orchard Tracts I,~~ shall not exceed 6 residential dwelling units per acre.

~~10. Soil infiltration (commonly called grassy swales) shall be placed in the right-of-way on the internal subdivision roads to collect stormwater runoff, if feasible. The plans for grassy swales shall be approved by the City/County Health Department and the County Surveyor.~~

11. Fire hydrant locations shall be approved by the Missoula Rural Fire Chief. The cul-de-sac turn-around radius' shall be approved by the Missoula Rural Fire Marshal.

12. The developer shall include the following addition to the covenants:

New Section ADD: Gardens and ornamental shrubs attract wildlife thereby creating the potential for adverse human/wildlife encounters. It is recommended that homeowners obtain a copy "Living with Wildlife" either from the Office of Community Development or the Missoula County Rural Planning Office.

The motion was seconded by Fern Hart for purposes of discussion, but died on the final vote of 1-1 with Fern Hart voting against the motion.

Fern Hart said she wanted to support 4,050 square feet for the multi-family lots. She said the multi-family lots are important for diversity in an area. She asked the audience if a park were approved, could they take care of it? The audience answered in the affirmative. She said this would mean smaller lot sizes.

Peggy Chilcote said the residents were willing to learn how they could obtain funding in order to care for their parks. When the land is gone, there will be no more land available for parks. The Commissioners do not have to approve six units per acre. The developers could still do the larger lot sizes. She said the intent of the Comp Plan when it mentioned varying styles of housing was varying the individual housing so it didn't look like tract housing.

Fern Hart said it was hard to know and talk about the intent of a plan that was drafted so many years ago.

Barbara Evans said if Fern Hart was inclined to require park land rather than cash-in-lieu, she wouldn't vote for it unless there was a park maintenance RSID included.

Fern Hart agreed with this.

Nick Kaufman said if they have to do a maintenance RSID for the park, this will significantly affect the payments for these homes. Water, irrigation and maintenance costs are significant. He said if the history of the existing parks and commons areas are reviewed, it is interesting that in 20 years, these areas have not been maintained. It is easy for a person to say they will be able to maintain it. After 20 years, the residents have not been able to maintain their parks and common areas. The subdivision would lose lots for park space. The residents of this subdivision would have to pay for this maintenance RSID. Also, the developers would no longer have six units per acre. He said they do not get their density, no multi-family, and a maintenance RSID. He said he didn't know if the affordable housing project would work with these restrictions.

Fern Hart said this is a problem. However, she said she is looking at what it would take for a neighborhood to have a feeling of community. The two subdivisions combined will have a total of 103 units. There is no park in this area for these residents to use. For the best of this neighborhood, they need a place.

Nick Kaufman said there is a large acreage tract just east of the proposed subdivision which is owned by the school district. While it does not meet adult standards for park, it will meet the standards of the children. He said it may be leased for horse pasture presently, but leases can end; it is in public ownership. He said it was commented that no one knows where these park parcels are located because they are scattered all over the place. This requirement for park land will create another one acre where no one will know where it is located with no plan for maintenance. He wondered how an RSID could be created in the first phase of the subdivision when all the lots have been sold? He said one area of Lolo has tried three different times to create an RSID for sidewalks, but could not get approved.

He talked about the issue of the minimum lot sizes. He said he could design multi-family housing to include 25 foot front and side yards with 7 foot side yards and still have room for parking. He asked the Commissioners to imagine one building with four families on almost a half acre of ground; this is not overcrowding.

Barbara Evans said it appeared to her that she and Fern Hart would not be able to agree on at least two conditions. She said having lived in Lolo and having been aware of the park situation, she would support the improvement of the park at the end of Red Fox Lane. This park gets a tremendous amount of use. It is also in the same area as the proposed subdivision. She said as a member of the Park Board, she would rather see money used to improve, develop and maintain this park and other existing parks, than see one more park created which wouldn't be maintained. The County will lose an additional $10,000 that could go towards developing and maintain land the County already has. The County also needs to make the provision of affordable housing available that is economical. If the County keeps making it so it isn't economical, no one will bother to put them in.

Fern Hart said her inability to agree with Barbara Evans was based on the hope that Lolo become a whole community. Separate neighborhoods within this community need to fee loyalty to their area. The Community Council must take on the burden of the issues relative to parks and accepting diversity in the Lolo residential areas. She said she felt this concept will build a kind of neighborhood where people will want to stay.

A discussion ensued relative to the deadline for the decision on the proposed subdivision. It was concluded that the deadline was May 14, 1994.

Michael Sehestedt, Deputy County Attorney recommended that the matter be continued for one week to allow the third member of the board to be available to break the vote.

Barbara Evans asked if the subdivision could be approved with all but the two conditions? There are but two issues that are disputed. Couldn't these be decided at a later time?

Colleen Dowdall said the subdivision will be approved conditioned upon and subject to the conditions. The conditions must be determined before the subdivision can be approved.

Michael Sehestedt said the subdivision cannot be approved until all of the conditions are set, even is there are only two that are disputed.

Nick Kaufman asked if Commissioner Hart would approve a condition that would allow smaller lots with an over-all density of six units per acre, provided that there was park dedication and minimum lot sizes of 4,050 square feet?

Fern Hart agreed with this. She said she couldn't see any way to achieve a fairness outside of this.

Nick Kaufman said they would have to look at this.

Ken Allen asked if the lots were made smaller and park land was dedicated, would the subdivision review process have to be started over?

Fern Hart said she didn't think so.

Peter Templeton said there is two weeks before the deadline. He suggested that the county shouldn't hash out a quick deal. There is no reason to--there is time. He said he would feel more comfortable with this whole process if more time was given to this decision.

Fern Hart said the audience is at a disadvantage because they don't have the materials in front of them as did the staff.

Nick Kaufman said the developers have not changed their position since the original submittal. They presented their original submittal to the Planning Board and to the Commissioners. They have been consistent from the day they submitted their proposal. The staff's changes to the conditions came after the Planning Board meeting.

Fern Hart said it is a very difficult position to have someone write the recommendations for the Commissioners.

Barbara Evans moved and Fern Hart seconded the motion to postpone the decision on Rossignol Orchard Tracts No. II until the Public Meeting on May 4, 1994. The motion carried on a vote of 2-0.

HEARING: BRANDIE ADDITION PRELIMINARY PLAT

Ron Ewart, Planner at the Office of Community Development, explained that on April 5, 1994, the Missoula Consolidated Planning Board voted 5-1 to recommend denial of the Preliminary Plat request for Brandie Addition.

The basic reasons for a recommendation of denial were that a) the density of the subdivision is too high, b) River Road is not able to handle such an increase in traffic, and 3) the proximity to Missoula Ready Mix Concrete.

Brandie Addition is a proposed 17 lot duplex residential subdivision on 4.37 acres located in Section 20, T13N, R19W, on the north side of River Road, midway between Russell and Reserve Streets. Saulter Lane, a 14 foot dirt road, borders the property to the west. To the north is the Missoula Ready Mix Concrete Plan and to the east are mobile homes. The property currently contains a barn in the central area and a single family residence in the south east corner of the lot.

The proposal calls for 16 lots that average 7,750 square feet upon which duplex homes will be constructed. The existing family home near the south west corner of the property will remain on a 15,700 square foot lot. A 17,500 square foot common area is planned for the northern end of the development. The overall density of this development with the 33 residences amounts to approximately 7.5 units per acre. The area is in the Zoning District No. 16, which allows single or two family dwellings and does not stipulate minimum lots sizes, density requirements, or setback requirements. The typical lot layout shows a 7.3 or 8 foot side yard setback, 20 feet in front and approximately 50 fee in the rear. The side yard setback next to River Road on Lot 1 is 20 feet. The

Missoula Urban Area Comprehensive Plan designates this area as "Urban Single Family" where townhouses, duplexes, and single family detached houses at a density of up to 6 units per acre is recommended.

The Office of Community Development recommended that the overall density of this subdivision be lowered to more closely meet the Comprehensive Plan designation and the neighborhood character. If one lot were removed along the west side of the development, there would be more area for a landscape buffer along River Road. This space could be the same as the space in front of the existing home. It is commendable of this proposal that the existing home will remain, in order to provide not only a buffer, but a remnant of the past character of the land.

The homes within this development will be served by cul-de-sac street called Levitt Court which accesses to River Road. The lots will connect to City of Missoula Sanitary Sewer service that is located in River Road, and a community water system from two wells is planned to provide water service. There is also promising speculation that Mountain Water will extend service to the subdivision. The proposed subdivision is located outside of the City limits, within the Reserve Street annexation area, scheduled to be annexed into the City in December, 1994.

The recommended conditions of approval as recommended by the Office of Community Development were as follows:

1. The Property-owner's Association Articles of Incorporation, By-Laws, Covenants and Restrictions shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict. *Article 4-2(5)(D)(4).*

2. Soil infiltration (commonly called grassy swales) shall be placed in the right-of-way to collect stormwater runoff, if feasible. The plans for grassy swales shall be approved by the City/County Health Department and the County Surveyor. *Article 4-11(A) Effects on the Natural Environment.*

3. Landscaping plans for the common area adjacent to Missoula Ready Mix and along Saulter Lane and River Road shall be approved by the Board of County Commissioners. *Article 4-11(A); Public Health and Safety.*

4. The developer shall provide a 4-foot vinyl-coated chain link fence and additional top soil along the northern edge of the common area, adjacent to the Missoula Ready Mix site. *Article 4-11(A); Public Health and Safety*

5. The developer shall provide a 4-foot vinyl-coated chain link fence along the western boundary of the property adjacent to Saulter Lane. *Article 4-11(A); Public Health and Safety*

6. A 1-foot no access strip shall be shown on the face of the plat along the west property line. *Comments of the County Surveyor.*

7. The fire hydrant location shall be approved by the Rural Fire Marshal. *Comments of the Rural Fire Marshal.*

Gilbert Larson, Druyvestein, Johnson and Anderson, representing David Theisen the developer, said this proposal comes to the Board with a mixed recommendation from the OCD staff, who recommended approval, and the Planning Board, who recommended denial. He said there were two key concerns from the Planning Board: 1) density; and 2) traffic. Mr. Theisen has been very involved with affordable housing in Missoula County. Last year he sold 50 affordable housing units and has also had other projects which have not moved forward. He said Mr. Theisen still feels the need to provide housing which is affordable. He said Mr. Theisen proposed another affordable housing project just down the street which was approved by the Board, but because of zoning, was successfully protested. He said they got the message from the residents to look for a site where the zoning allowed the density and where the character of the neighborhood didn't have to be changed. Mr. Theisen looked in the same general area for a site where the zoning was compatible and where it was also compatible with the neighborhood. He thanked the OCD who spent a lot of time on this project. Originally, there were 18 lots each with a duplex. One lot has been eliminated and one lot has been changed from a duplex to a single family lot to allow the existing structure to remain, and also to provide some continuity for the area.

He said although the Planning Board denied the subdivision, they recommended that an additional condition be added that there be no burning devices allowed within the subdivision if it were approved. He said they concurred with the condition if the Board were to consider this.

He said they are proposing 33 units on less than five acres. Out of the 33 units, there would be 16 duplexes and one single family home. He said when they planned this subdivision, they looked at the existing zoning which is a special zoning district 16 which allowed duplexes and the proposed density. If the City were to annex, the property would probably be zoned R-2 which would require 5,400 square feet of lot for a duplex. The R-2 zone is the most comparable to the County's zoning district 16 and is the least intensive of density. The R-2 zone

would allow up to 52 duplexes on the property with 5,400 square feet. He said they propose 7,800 square feet with a duplex on each of the 17 lots. The proposal is much less density than the comparable City zoning. He said they also looked at the 1990 Comp Plan Update for this area. The Comp Plan does not designate a specific number of units per acre, but designates it as urban and built up land with no or slight limitations for development. This area has the least restrictions for development for any of the areas within the 1990 Comp Plan Update. He said it is not only important to look at the Comp Plan and the zoning, but also what is happening with the land. Immediately to the east of this property is a 30 unit mobile home park on five acres. Immediately to the west is Hendricksen Drive which has four duplex units on a half acre of property. This is a total of 8.7 units per acre. He said they are proposing approximately 7.5 units per acre of overall density. The surrounding developments are comparable to what they are proposing as far as density and scale. On the other hand, this is a very mixed area. There are large open areas, areas with multi-family units, etc.

Regarding the traffic, he said he was very sympathetic with the neighborhood's concerns. However, when a developer comes forward with a project, they must rely on certain things. The staff informed them that River Road has the capacity to hold the additional traffic from the proposed subdivision. There have been studies commissioned to look at the intersections which are most dangerous in Missoula; none of these intersections are in this area and wouldn't be directly impacted by this development. Since there are no concerns relative to the safe capacity of River Road, as determined by the staff, and since there are on intersections immediately adjacent to this site, a developer should be able to have the assurance that they could move ahead with a development. There should be more enforcement on River Road to control the excessive speed of vehicles. However, this should not be the burden of the developer who is building infill development on an existing street. He said the Board has encouraged this sort of infill development which does not have any driveways onto a busy street, but allows easy access to town through a collector street. He said there will be no access onto River Road. All driveways will access onto Levitt Court. The issue of traffic will always be there. This subdivision meets all the tests; the road can safely take the increased traffic; there will be no direct access by the lots onto River Road; the development is close to services at the center of town. He said as a direct result of the subdivision, there is a strong effort to bring Mountain Water into this area to provide fire protection, etc. Mountain Water has been very encouraging about paying the full principle amount for installation. This is proceeding very favorably. This is an opportunity to remove several wells from this area. Each well is a source of contamination to the aquifer. If this falls through, they propose a public system for this development. In either case, there will be public water regulated by the Public Service Commission and the Water Quality Bureau. This development will be connected to City Sewer.

He referred to Conditions 3, 4 and 5. In the last few years, there has been a need to regulate landscaping and improvements. Condition No. 3 dealt with landscaping for the lots adjacent to the park and Saulter Lane. Each of the lots would be required to have a landscaping plan which would be reviewed by both the Office of Community Development and the Commissioners. This represents several hundred dollars of time for each lot. He said it is their opinion that they could plant quite a few trees for the value of their time. The choice should be left to a private individual without needing the consensus of OCD and the Board of County Commissioners. Regarding Condition No. 4 and 5, he said they agree with the need for fences and had planned to put fence in along the common area. However, they planned to put in a post and pole fence with sheep wire fencing at the bottom which would be compatible with the surrounding area. He commented about the degree of regulation which is occurring to require a "four foot high vinyl coated chain link fence." This is going beyond what should be required of an owner. Furthermore, he said they do not agree that there should be fencing along Saulter Lane. They do plan to put in fencing along the common area, but should be able to decide what type of fencing. He asked that Conditions 3, 4 and 5 be deleted. They concurred with the other conditions as well as the additional condition relative to the wood burning stoves as recommended by the Planning Board.

The hearing was opened to public comment.

Joy Earls, a resident of 1905 River Road for seven years, commented on the subdivision review process. She said the residents were not really contacted; a sign was posted on the property and only two or three people were contacted. In an area where there are big properties, and where this subdivision will significantly impact the area, it would have been nice to have some form of contact.

Fern Hart said the County goes by the statutes relative to posting for new subdivisions. The regulations say any adjacent property must be contacted.

Joy Earls stated that she understood this, but the effects of this proposal are so severe, more effort should have been made to contact more of the residents. She said the woman who was contacted was the person who sold the property for this development. She commented that she was not able to obtain the minutes of the Planning Board meeting which made it difficult for her be able to quote some of the key statements made by the Board members relative to this subdivision. She thanked the Planning Board for listening to and hearing the concerns of the residents. She said she was not against affordable housing or development and strongly supported both of these. To the east of this proposed development, a similar proposal, River Court, was approved on five acres with six duplex units. No one in the neighborhood protested this development. This subdivision blends into and has had minimal impact on the area. She said the Brandie Addition is in stark contrast to the River Court

subdivision. The proposal totally ignores the neighborhood and the surrounding area. It ignores the current needs of the residents as well as the future residents of this proposal. It also ignores the Comprehensive Plan and this zoning district.

She referred to the report by the Office of Community Development staff which stated that this area was comprised of trailer courts. The adjacent trailer court would not be allowed in the zoning district if it was proposed now. The court was first proposed as a duplex development; the developers decided they couldn't afford duplexes and developed it for mobile homes. Many of the residents were upset, but by that time, there was nothing they could do. She said she took a count of the houses between Russell and Reserve Street, not counting trailer court, there was a total of 30 houses on the north side of River Road. This proposal will double the density of the north side of the street. She referred to the Reserve Street Area Draft Municipal Service Report drafted by Land & Water Consulting. The report stated that the current houses per acre in the River Road area is 1.75 houses per acre. The current population is 4.05 people per acre. The current density will be significantly be impacted by this subdivision. Also, the report considers the intersection at River Road and Reserve Street a hazardous intersection. Increasing the density as proposed will have a serious impact on the traffic.

She commented on the term "infill development". This is a popular term which has been casually thrown around. This term is not being used in the true sense of how it was written. Troy Kurth of the Planning Board said at the time this whole area was subdivided, there were roads planned along with individual wells and sewers. The acreages were also fairly large. Infill developments work well in a downtown situation as there is sewer, water, power available. This area will not easily plug in 33 additional housing units. The roadway is currently 22 feet wide with no walkways. A roadway for an urban/suburban subdivision is required to be 32 feet wide. It makes no sense to have a 32 foot wide road within the subdivision feeding onto a 22 foot wide roadway. All the surrounding streets are very narrow and weren't meant to support this type of traffic. No water is available in this area. Two wells are proposed which will affect the water of adjacent properties. All properties are on individual wells. Mountain Water may or may not come into the area. She said to place multi-family dwellings in the middle of single family residences is not appropriate. The citizen initiated zoning allows one and two family dwellings. River Court subdivision fits perfectly within the Comp Plan and the zoning for the area. The prohibited uses include mobile homes on less than 12,000 square feet. When the zoning was amended in 1969, it was never envisioned that homes would be built on pieces of property that were 7,800 square feet. Even a mobile home wouldn't be allowed on less than 12,000 square feet. A home should not be considered on less than 12,000 square feet.

The decision on this subdivision will have a dramatic impact on the neighborhood and will set a precedent for development of lots in the whole area. She urged the Commissioners to consider this as they make their decision. Missoula is growing fast and affordable housing must be supported. However, it must be done in a planned manner. She urged that the Commissioners slow down their decision in order to review the comments of the residents to preserve the character and charm of the neighborhood.

Daniel J. Burke, an adjacent property owner, disagreed with the comments that the traffic from the subdivision would exit onto Levitt Court. Levitt Court exits onto River Road. The residents of the existing trailer court exit onto one roadway onto River Road. It is an absolute jungle. The trailer court is not configured much differently than the proposed subdivision; however, they are single family dwellings. He said the developer merely wanted to create a "ghetto" in their neighborhood and wanted to impact the neighborhood to the same degree as the trailer court. The neighborhood has no parks for the children to play. The subdivision proposes a small common area at the north end which means that the children who live at the front of the subdivision will have to travel the length of the subdivision to get to the common area which is adjacent to Monroe and the irrigation ditches. Apparently, the developer doesn't feel it is his responsibility to maintain the safety of the children. Huge cement trucks travel Saulter Lane; there has to be some kind of barrier to keep the children from underneath the trucks. He said he bought the property for what it was and where it was. The entire neighborhood is not made up of rental properties and trailer houses. The surrounding properties are well maintained single family homes. He said they do not want this kind of impact in their neighborhood. He said he is not opposed to affordable housing or multi-family housing or development. However, he was opposed to the impact that this particular proposal is going to bring to the neighborhood. The River Court Addition is an good example for other developers to look at. If the developer could propose a similar subdivision, no one would be in opposition.

Ruth Brinkerhoff, a resident of 1923 River Road for 30 years, said this subdivision will be a ghetto next to a ghetto. She said it was not fair to the rest of the residents who work hard to maintain their properties. This subdivision will depreciate the value of their property. Saulter Lane produces much dust from the gravel and cement trucks. If there is no chain link fence, the children from the subdivision will not be safe. She commented on the intersection at Russell Street and the road past the school as both being terrible. She said the extra 33 residences will only worsen the situation. The residents of this subdivision will be packed like sardines in a can; it is not fair for these people to be next to Monroe and Saulter Lane either. Hendricksen Drive is not in the zoning district. She spoke about the impact this subdivision will have on the schools. She said the

Commissioners will spend thousands of dollars on open space--why don't the Commissioners preserve the existing open space on River Road?

Diane Seigford, 1822 River Road, said her grandparents bought the property in the late 1920s, and many changes have occurred over the years. Zoning District 16 is not shown on the map provided by the developer. In 1969, when the residents initiated zoning, it was in response to the mess created by the trailer court. The residents were not specific about the number of dwelling units per acre because they didn't want to be that restrictive for the future. The houses per acre is greatly more reduced than the proposed subdivision. Most properties have 2-5 acres per home in the area. The subdivision is proposed at 33 units for almost five acres. The studies completed on Reserve Street were completed before the new four lane was opened which makes the study outdated. During busy hours, it is impossible to get onto Russell or Reserve. People use the street that runs past the school during these hours. She commented that the road is narrow with barely room for cars to pass with a strip of elevated asphalt for the children to walk on. When it rains, there is no drainage. This is a horrible situation. She commented that the subdivision was one foot above the floodplain. She wondered if there had been a study conducted relative to how much radon is in the area.

Barbara Evans stated that radon testing was not a part of the subdivision requirements.

Diane Seigford said while she was not opposed to development, the density of this subdivision makes it hard to put up with.

Clara Malcolm, 1931 River Road, which is adjacent to the development, said she is very concerned about this many families moving across from her. She said she has a lot of trouble sleeping during the summer months; the noise from this subdivision will keep her awake at night. She said she is concerned about this many people being put into such a small space. There are many renters who do not care for their property and it concerned her that the residents of this subdivision will not take care of their property either. She said it will turn into a slum area. The children will be pushed to the back of the property to play on the common area. Children want to be close to their families but there won't be room in their yards to play. They will have to play on the street. The traffic will be tremendous from this subdivision. Usually, people have two to three cars. She said was not in opposition to the development of this area. There could up to nine duplexes on this land and still be an asset to their community.

Mark Earls, 1905 River Road, commented that River Road is narrow. He said when driving to work, he weaves in and out of school children; there are no sidewalks or any place for them to walk. The subdivision will be located on a narrow, country road which will have to accommodate all of these people. He said Mr. Theisen proposed a subdivision 300 yards away from the present location which wasn't acceptable to the community. This subdivision is no better as far as the impacts. It is hard to picture, but the development borders on Monroc and Saulter Lane. This is not an attractive site for a housing development. A 12 foot buffer zone between the subdivision and the quarry isn't practical. To stick this many people in this area is not fair to the future residents or the existing community.

Mike Williamson , 1837 River Road, said there was never a for sale sign placed on the property in question. This property should be turned over to allow a family to buy it to raise their horses or cows. He urged the Commissioners to save the existing open space.

Fern Hart suggested that Mr. Williamson offer to buy the property from the developers.

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

Fern Hart said if the residents have any further remarks to make, that they be addressed to the chair from the microphone.

Barbara Evans made a motion to deny the preliminary plat for Brandie Addition and asked the developer to come back with a proposal with less density, that provides a central common area, and that addressed the resident's concerns.

She said a common area located at the end of the property in close proximity to the ditch and Monroc is probably not conducive to parents being able to keep an eye on their children. She said she wanted to see a fence along Saulter Lane, landscaping to buffer the area, and a waiver of protest for an RSID to improve River Road. She asked that the Surveyor provide a report on the current status to upgrade River Road if the developer comes back with another proposal. She asked that the developer have a definite answer from Mountain Water.

Fern Hart said she recognized the names from the previous development where the zoning was defeated by the residents. She said there has to be affordable housing in many areas. The things the residents are asking for to make it an acceptable neighborhood are important. The duplexes would be owned properties, not rental units. The homes will have a 50 foot back yard which is big enough for children to play. She asked the neighbors to take a fresh look at this development. She wondered what the residents would take on as their responsibility for

being a part of this neighborhood. The River Road area should be aware of what it is to become. It cannot stay what it has always been. The Commissioners cannot declare open space when someone else has bought the land. The Commissioners cannot make someone put a for sale sign up. She urged the neighbors to try to negotiate for the purchase of this land. It is not between the County and the developer. The County cannot take property and this policy will continue. She said she agreed with Barbara Evans' statements and wanted to see the same things included. The neighbors cannot say stop to all development. There should be affordable housing in every neighborhood.

Ron Ewart said one of the constraints that OCD had to work with from the beginning was that the zoning district allowed only one and two family dwelling units. There could be possibilities for townhouses with more open space available. This would necessitate a Planned Unit Development which could be protested by the residents. If the developers would be able to do a PUD, more units could be attached as well as more open space. He suggested that perhaps the neighborhood would like to be a part of this process. Thus, when the proposal comes before the Board, it could be more of a united development.

Colleen Dowdall, Deputy County Attorney, commented that the deadline for this application was May 14th. She suggested that due to the time remaining, the Commissioners may not want to defeat the subdivision.

Barbara Evans asked if the County could ask for an extension of time past the 14th? Would the developer have to start over, or could the developer bring in a revised subdivision?

Ron Ewart said a determination would have to be made as to whether the changes were significant enough that it would have to go back to the Planning Board.

Colleen Dowdall said if the Commissioners move to deny the subdivision, then the developers would have to come in with a whole new subdivision application. She said if the Commissioners postpone the decision of the subdivision, the developers could come in with revisions to the plat on the 14th of May.

Gilbert Larson stated that he has had discussions relative to this with Mr. Theisen; the developer is not interested in reducing the density. If it is not approved as presented, he will withdraw the project. He said if the proposal is withdrawn, it will come back as a whole new proposal, with a totally different set of circumstances. He wondered what the Comp Plan and the zoning really allowed. He said it seemed to them that the proposal was in compliance. He said he didn't think anyone could tell him what would be in compliance because the neighborhood is so mixed. He said he didn't think they would look at placing five or six duplexes on the site which would be two units per acre. He said he would hope they would be looking at more than five or six duplexes on a five acre tract. He asked for direction from the Board; the Commissioners have given him some criteria, but the key issue will be density.

Colleen Dowdall said she thought density was not the issue--rather it was the issue concerning design.

Barbara Evans stated that it was not her intention to change the rules now. She expressed concerns that some sort of berm or barrier be provided along Saulter Lane to protect the children. She recommended that fencing be used in this area.

Gilbert Larson explained that none of the residents would access onto Saulter Lane.

Barbara Evans said the intersection at Russell and River Road is a terrible intersection. She said she has been persuaded by the testimony as to the traffic problems. Everyone accesses onto River Road, which is not conducive to good traffic patterns. The residents either exit onto River Road, Reserve Street or Third Street. It is not a good situation. She said the Surveyor's Office does not plan to upgrade River Road. The City may or may not plan to upgrade it. The subdivision proposes a lot of density. The rules are not clear; the Plan does not specify density. She said she was persuaded by the testimony that this is an awful lot of density for this area. She said she has supported nearly everything that has come in for approval from Dave Theisen. However, this is more density than she was willing to support. She said she would be more supportive if they could bring in a plat with a central common area in view of the parents. She stated she was not real impressed with the design.

She warned the audience that the County cannot take people's property. She said if the developer took the County to court for denying this proposal, she was not sure if the reasons are justifiable to deny this.

Fern Hart said she wanted to see an attempt at a PUD. She said it is not fair the residents have to use a sub-standard road. However, once more people move into this area, the road will get fixed. The property could be planned well with perhaps higher density to be a more attractive subdivision. The common area at the end of the subdivision located next to the cement plant is actually allowing children to breath concrete dust. She stated she wanted to see affordable housing in this area, but wanted it done well. She said she didn't have a problem with Mr. Theisen's first affordable housing proposal--but the residents did.

Barbara Evans withdrew her motion to deny Brandie Addition.

APRIL 27, 1994 (CONT.)

Barbara Evans moved and Fern Hart seconded the motion to postpone action on Brandie Addition Preliminary Plat, until the Public Meeting on May 14, 1994. The motion carried on a vote of 2-0.

A member of the audience commented that they were not the group who defeated the PUD zoning. He said the residents are not opposed to development or affordable housing

Fern Hart said River Court was probably not considered affordable housing.

HEARING - CERTIFICATE OF SURVEY REVIEW: REVOCATION OF AGRICULTURAL EXEMPTION & BOUNDARY RELOCATION - OWENS

Kathy Smith, Paralegal for the County Attorney's Office, explained that Gaylong F. Owens submitted a request for revocation of an agricultural exemption parcel on Tract A of COS 2622. Mr. Owens has also submitted a request for boundary relocations on Tract C of COS 2622, the NW1/4 of Section 32, T13N, R20W and the SE1/4 of Section 30, T13N, R20W. Mr. Owens proposed to "clean up" the boundaries of the parcels for trade to the US Forest Service. Mr. Owens wishes to revoke the agricultural exemption currently existing on Tract A of COS 2622 because there is no use for the parcel which would be agricultural and a mobile home exists on the property which he believed is a better use of the property. Mr. Owens also wished to relocate boundaries between the SE1/4 of Section 30, T13N, R20W, Tract C and Tract A of COS 2622 to enlarge Tract A to approximately 5-6 acres, which complied with the zoning. Tract A is currently 1.53 acres. Mr. Owens then proposes to relocate boundaries between the remainder of Tract C of COS 2622 and the NW1/4 of Section 32, T13N, R20W, creating a small parcel on the north end of Tract C which would be approximately 5-6 acres and creating a larger parcel of approximately 252 acres. This larger parcel would then be traded to the US Forest Service.

The history of the parcel is as follows: COS 1089 was filed in February, 1977, using a boundary relocation; COS 1410 was filed in February, 1978, using an occasional sale; COS 1518 was filed in July 1978, using a boundary relocation; COS 2011 was flied in July, 1979, using a boundary relocation,; and COS 2622 was filed in 1981 creating three tracts--an agricultural exemption and two parcels greater than 20 acres in size.

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

The hearing was opened to public comment. There being none, the hearing was closed to public comment.

Barbara Evans moved and Fern Hart seconded the motion to approve the request by Gaylong F. Owens to 1) revoke the agricultural exemption currently existing on Tract A of COS 2622; 2) to relocate boundaries between the SE1/4 of Section 30, T13N, R20W, Tract C and Tract A of COS 2622 to enlarge Tract A to approximately 5-6 acres; and 3) to relocate boundaries between the remainder of Tract C of COS 2622 and the NW1/4 of Section 32, T13N, R20W, creating a small parcel on the north end of Tract C which would be approximately 5-6 acres and creating a larger parcel of approximately 252 acres. The motion carried on a vote of 2-0.

HEARING CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER - HANN

The hearing for the family transfer for the Hann's was postponed until the Public Meeting on May 4, 1994, due to the time constraints of today's meeting.

HEARING: CONFLICT OF INTEREST/HOME PROGRAM

Colleen Dowdall, Deputy County Attorney, explained from information received from Cindy Wulfekuhle, Housing and Community Development Specialist, that the action requested was approval of a request for Waiver or Exception from Federal and State Anti-Conflict of Interest Prohibitions on behalf of a Missoula County employee selected as a participant in the Missoula City-County Affordable Homeownership Program (MCCAHP).

Per the State HOME staff and their attorney, Section 2-2-201 and 7-3-4367, MCA, prohibits any municipal or county employee from entering into a contract with their employer. The County is co-administering a first-time homebuyer program in which a County employee was selected during a random drawing for participation in the program. Assistance provided would require a contract between the employee, Teresa Smith, Public Health Nurse I, and Missoula County.

The hearing was opened to public comment; there being none, the hearing was closed to public testimony.

Barbara Evans moved and Fern Hart seconded the motion to find that no conflict of interest exists and requested that the Montana Department of Commerce grant such waivers as may be necessary in their opinion to proceed with facilitating the loan for Teresa Smith. The motion carried on a vote of 2-0.

Fern Hart signed the request for waiver/exception from the Federal and State Anti-Conflict of Interest Prohibitions.

There being no further business to come before the Board, the Commissioners were in recess at 5:15 p.m.

PUBLIC HEARING: Maclay Bridge - Large Courtroom

The following minutes were taken verbatim by Carter & Burgess, Engineering Consultants.

Chair Fern Hart opened the meeting at 7:00 p.m. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

Mike Worrall from Carter & Burgess, Inc. presented an oral report to the public on the Environmental Assessment Process involved with Maclay Bridge.

He explained what has taken place on the project to-date, four public workshops have been held at Target Range School. He explained how they arrived at a preferred alternative at South Avenue, and discussed the project alternatives.

The Environmental Assessment has been written and the public comment and review period is now in process. It is a 45-day process that ends May 24, 1994. The project does not have a funding source at this time. Federal funds are being pursued.

The hearing was opened to public comment.

Charlotte Hann: My name is Charlotte Hann and I live at 4603 Edwards. I would like to speak very briefly tonight on behalf of my husband Allen and myself. I would like to just read the statement that I wrote--"Along with many others in the Missoula area we are struggling with the question of growth and we mourn the eventual loss of the rural atmosphere that makes living in Target Range so appealing. However, growth is apparently inevitable and the question becomes how to manage growth. We believe that the recent Maclay Bridge study considered all aspects of the issue and we are in full support of both its process and resulting recommendations. We believe that a two-lane bridge is needed and that the proposal location at the end of South Avenue, a main arterial street, makes much more sense and impacts fewer people by far than a circuitous route down Clements Road, North Avenue, and River Pines Road. While we share the concerns for the safety of the children at Target Range School, the children will be exposed to increased traffic no matter where the bridge is located. We feel that the key to continued safety will be in educating the students in the same way that students in other high traffic areas are educated about traffic safety. Basically, it's our belief that this study was done professionally, comprehensively, and with ample public input. We urge the County to accept the findings of the study and move forward to develop funding toward construction of a two-lane bridge at the end of South Avenue.

Neil Jensen: I'm Neil Jensen and as it turns out, I've lived in O'Brien Creek longer than anybody and it's important to remember that all my life, from a child on, it was well known that the County had acquired this right-of-way at the end of South Avenue. And the people in O'Brien Creek just accepted this, you know eventually, when the time came, that's where the new bridge would be. I'm sure the people on South Avenue had to be aware of it. It's likely the people on North Avenue knew too--looking forward to the traffic shifting--about 4 or 5 blocks south of them. I am disappointed that some people would actually try to influence a US Senator with information that flat wasn't true and that the bridge wasn't needed or that they were concerned about safety of children and would subject other school children to riding a very shady, narrow, twisting, windy road in winter along side the river and we're hit, not just the kids but all the people who live on the west side of the river, would have to then try to make a left turn on to Highway 93. I'd like to think I can take care of myself, I guess I can make that left turn, but not if I'm the 30th car in line waiting to do it. I hadn't planned to stand up in front of you to talk so I guess that's the best that I can do. Thanks.

Brad McMullin: I just have three brief comments. First of all, like many of us have already expressed, just personal feelings, like many of us, we hate to see a lot of the rural atmosphere of our community being changed considerably. I'm not sure how much growth we are going to see or how much of it is "necessary." I guess at the present time there is a fair amount of discussion going on in the County on are we going to try to do something to control that growth or allow it to go where it's headed and that's something that's yet to be decided. I do have a couple comments that I have particular concerns about--I'm a resident of Target Range on Humble Road, and I'm also an M.D. I have worked as an emergency doctor at Community Hospital for eleven years, and I have a concern about safety of individuals along that street and also the High School, and we've got I believe at least three churches on South Avenue. And also of course, we have Target Range School. It has been pointed out that the traffic is increasing there no matter what we do. But I have some concerns about not just the traffic increasing, where this bridge goes through, not only will the traffic increase, which is going to happen anyway, but the type of traffic is going to be a definite change. Right now I don't think we're going to see tandem trucks and logging trucks and things like that going down that road for the simple fact that the bridge can't handle it. As soon as we get a two-lane bridge put in that area, we are going to

have a considerable change in the type of traffic that's going to be crossing there and going up and down South Avenue, and I know how dangerous that corner is at Clements and South right now because as we all know you can't anticipate what kids are going to do. As much as we like to think that we can control that--it's not that easy. I'm not sure how that problem can be addressed, but it certainly needs to be addressed in our overall planning. The second question I had concerns on is the funding issue. And it's been mentioned that we don't have the funding source yet. Originally, what I had heard was that there was very likely some Federal money available for that and I assume that's still being looked into. Besides the bridge though, there is also some concerns about South Avenue itself . Anyone who lives in the Target Range area or Orchard Homes or anywhere down there that uses the South Avenue for regular transportation, realizes that South Avenue is not exactly a pristine-smooth highway at this point, it's pretty rough and there is a lot of potholes, and that's basically carrying car and small truck traffic. If you start routing large trucks down there, South Avenue is going to fall apart. So we are not looking at just a bridge--we are looking at some fairly major construction involving that infrastructure and that has to be addressed. Down when you get close to where that bridge access is, I would imagine that road is going to have to be widened as well. Here again you run into funding problems. Are the homeowners going to be required to pick up the funding for that because right now, if I'm not mistaken, road improvements are the responsibility of the homeowners that live alongside the road. That isn't true--it depends on the road--o.k. So that won't affect that area then as far as the funding is concerned. I think that's the main concerns that I had to bring up and thank you for your time.

Walt Kero: My name is Walt Kero and I live at 2415 Gunsight Court. For those of you who don't know, that's adjacent to South Avenue. I've got about 5 or 6 comments, questions that are related directly to the report. The first one is I wanted to know why the preferred side South #1 was selected when North #1 has a cost tag to it of $260,000.00 or more than a quarter of a million dollars less.

Mike Worrall's Response: North #1 was not selected because impacts on two residential parcels would be too substantial.

Walt Kero: This is a follow-up to that because it concerns costs also and the previous speaker eluded to it but figure 3.1 in the report reflects that the preferred alternative has moderate land, farm social economic impact and minimal operations and traffic impact. So for those of us who live along South Avenue west of Clements that's far from true.

The current traffic flow in the report on page 23 on South Avenue west of Clements is 1600 vehicles per day and after the preferred sight #1 is selected and a bridge built and the traffic is going through there it will increase by 3300 vehicles per day and up to 4900 vehicles per day. Now, this is a tripling of the traffic flow and right now it's a residential neighborhood, and South Avenue is termed a collector street. And so basically it's going from a collector street to what I would call an arterial. I live on South Avenue, and right now, as I've mentioned in the prior meetings, law enforcement cannot effectively enforce the speed limit laws because I see these people driving by there at speeds ranging from a speed of 30 ranging to around 50 or 60 miles an hour. I just want to point out that I think that this report is a little lacking on the impacts South #1 or South #2 because of the change. The students are faced with 1600 vehicles per day going across South Avenue and Clements Road . If South Avenue is the bridge sight location, that's going up to 4900. Right now, a significant amount of people stop and turn onto Clements, so that the students who use that crosswalk there are not subject to 2000 to 3000 vehicles per day coming at them. The thing I wanted to get back to on cost as I talked to you about in Figure 3.1 is that if South #1 is selected, South Avenue will probably have to be widened. If it is, that's going to be a cost. There is a ditch that runs alongside my house that will have to either be moved or covered , the utilities will probably have to be relocated because the telephone poles on the north side of the street are real close to the existing right-of-way. So if there is any widening needed, there will be some major problems and major costs involved. On page 16 of the report, there were alternatives that were not considered. Mount #2 , Edward #2, Sundown #1, Sundown #2, and one of the reoccurring themes and the reason they were not considered, is that those streets aligned with a roadway that was currently classified as a local street. If that is important criteria in that selection of not considering them, right now South Avenue west of Humble Street is a dirt road. I would consider it not a collector, I don't know all the terms and definitions of streets, but right now it's a dirt road. It seems to me that reasoning is kind of shallow in excusing those alternatives. The report did not include a listing of who was on the Citizens Advisory Council--and if it's at all possible I'd like to have one. On page 44 of the report you list one of the mitigation measures for both South Avenue alternatives is to construct curb and gutter in residential areas to reduce the roadway cross-section width and to alert drivers of the transition into a residential area. Who is going to pay for the curbs and gutters? Is that a homeowner or a landowner? It is a concern because it would be a cost to a significant amount of people along South Avenue. I want to make a critical comment on that graph. Has anybody tried to read that thing over there? That thing that's in those moons -- well, if you get down to it what it means is that the full moons indicate that it's a good --and the dark moons indicate negative impact. And the print is so fine--I'm a CPA and I get tired of looking at fine print, this is just a suggestion for the future.

Penny Oncken: I'm Penny Oncken and I live on Big Flat Road and I've been concerned about the bridge for several years since I moved here about 5 years ago. At that time, the real estate person said that it was going to be replaced, evidently a lot of the Real Estate people don't understand what is going on with the bridge or something. One problem I have is that people keep saying that it's only going to effect you people on the other

side of the bridge, it's not, it will effect the whole community. It will effect Caras, the florist who delivers out here, electricians, plumbers, UPS, the Post Office, etc. There are various people that have domestic help out on Big Flat and it will effect those people, McGowan Water people will be effected too. Some of these people even charge a mileage charge with the people out on Big Flat would end up paying. I also have a very big concern about if the Maclay bridge is not replaced--what will the value of the homes on the other side of the bridge be? And I also feel that if it is not replaced that Rosauers and Shopko will lose a lot of business to K-Mart and Safeway or to the new grocery store that's going to be going up on Mullan Road.

Valerie Knudsen: Hello, my name is Valerie Knudsen and I live on the west side of the bridge at 10650 Horseback Ridge Road. I am talking on behalf of my husband and myself, both of us have attended either all or part of the meetings that have been going on since July of last year. We have taken a very active interest in Maclay Bridge and we feel very strongly that there is absolutely no question that this bridge is not to be destroyed and not replaced. We feel very strongly that this has been a good study, that they have considered all the alternatives, and that we think that the decision that they have come up with the South #1, is a good decision. It is one that should be respected and followed. There are two things that I want to talk about today that effect me and my husband personally. I am a physician here in Missoula--and I'd like you to know that there are eleven physicians that live on the west side of the bridge. All of us provide emergency services at Missoula Community Hospital and that if we had to go down Blue Mountain Road it would add another 10 miles to our emergency commute to the emergency room in the dead of the night on Christmas Eve in the ice storms, snow and rains. Sometimes it can take 6 minutes and sometimes it can take 10 minutes. It's a very difficult road to go down in bad weather. It is narrow and icy and also a very difficult left turn onto Highway 93 and I think it's going to become much worse. The second statement I want to say is that I am a mother of 5 sons that will all attend Target Range School. They all ride the bus and I am very concerned about that bus going down Blue Mountain Road because it's icy and as I said it has a difficult left hand turn. I think that there are solutions to the increased traffic way such as a stop sign or a three-way yield and I think that these can be remedied. In short I would like to say that we are very strongly in support of your study and that we would like to see the bridge replaced on South #1. Thank you.

Sam Johnson: I'm Sam Johnson and I live up the O'Brien Creek and I'm also a paid volunteer on the Missoula Rural Fire District. I have real concerns with the west side of the current Maclay Bridge area. Not only for fire apparatus but for law enforcement and emergency vehicle access. Currently Missoula only has one engine that can cross Maclay Bridge and when that bridge is closed that eliminates our medical response like Valerie Knudsen was just talking about. It's going to add approximately 10-15 minutes depending upon the time of year across a piece of road that I know you all have driven and it is not a good road by any means. I've had to drive it when I worked the Lolo Station and it's no fun anytime of the year. In the wintertime we get a call and have to cross that road with fire engines in a hurry, you are looking at not only a good chance of losing a fire engine on that road, you're looking at general public that we're likely to meet on that road and it's to narrow for a wide rig like a fire engine that's trying to make it in a hurry and your average passenger vehicle much less the school bus that may happen to be going through there the same time of day. That's my next concern is the school buses on that road and the condition of Blue Mountain Road. You have got the ditch over on one side, a fair stretch of it, you've got the count the river over on the other side, if we lose a bus into that river, you're talking a real tragedy. We're going to make national news probably. The last concern I have is the 93/Blue Mountain Intersection. In the last month we have had two injury accidents out there on the end of that road right now with just cars that sent people to the hospital. Public access for the residents is going to mean the same kind of concerns for all the added traffic trying to get on there as has been mentioned by several people--Neil said it. He doesn't like the idea of being the 30th car in a row to be able to get on the road to go down 93. That's also going to add another problem, the people were concerned about more traffic on South Avenue, without that bridge in there all the extra traveling will add to that traffic load from Brooks to Reserve to South Avenue and all those other intersections down the line to get into town. Whereas with the bridge most of them are going to be able to take Clements and go down to 3rd and relieve that load. Weight concerns, someone mentioned that, about big trucks. Where is a fuel truck going to go, there are no gas stations on the other side of the bridge. There might be another logging truck in there but that's all going to end before too long and long before the bridge is done. Another thing I'm concerned with is the amount of time and gas used cutting across that bridge. The valley is always concerned with the dust problem we've got. The more traffic we've got going across that road the more dust problems we're going to have blowing around. All you have to do is sit back out there by Rosauers and look out towards Blue Mountain Road and everyday during the summer you see a big column of smoke. Well, I think that about covers what I had to say.

Rick Oncken: I'm Rick Oncken and I live on Big Flat Road. Like a lot of people that live on the other side of the river, we really don't care where the bridge happens to be. We're really satisfied with the bridge that we have now. Unfortunately, it's not going to last. It's really a shame that we are getting into an us and them sort of a situation because the people on the west side of the river have the same kind of concerns as the people on the east side have. Safety of our children, safety of our home, whether or not we can get an ambulance to our homes if we need one, and we know from living over there that the conditions along Blue Mountain Road don't lend themselves very well to any safety factor at all. It's going to add extra time, at some point in time somebody is going to land in the river, whether it's a school bus, fire engine, or whatever it is there will be accidents. We have a fog factor out there that depending on what time of year it is lasts from 60-70 days. We

have an ice factor that lasts all winter long because the sun goes so far to the south and it just doesn't melt. It unfortunately doesn't get any better until April or May when we finally get to the dust season. Basically I guess the only thing we are asking is that we would just like to see the same consideration for all the people in the community. That is just to be able to get our children to school in a timely, safe fashion and that we can get to work or have emergency vehicles come to us as needed. Thank you.

Fred Stewart: My name is Fred Stewart and I am a homeowner on South Avenue about a quarter of a mile from where the proposed bridge would be built. I brought my own props this evening. What I wanted to do with this prop which is from the Environmental Assessment, Figures 4-1 through 4-7, was to show all of the different alternatives that were brought forward in terms of traffic flow. I'm an economist by profession, I've worked on a dozen EIS's and EA's over the past 15 years and they were for Federal Projects, timber sales , grazing allotment, oil and gas etc. But I have never done an EA on a bridge. I can appreciate the problem of trying to display the Social Economic impact of different alternatives in a residential setting but it is very important that it be done. What I'd like to show and I'll just point these out and try to be brief, is that currently the black numbers show the existing level of traffic. 400 down at the end of South Avenue all the way up to 4500 vehicles per day on up past the school. Right now with the bridge in its current location 1900 cars coming across the bridge, and then they split--some of them coming down this way and some coming down the other way. 1900 cars a day coming from the west side of the river. In red I have shown the alternatives on South Avenue which includes the proposed alternative. The increase in traffic would be 3300 cars a day down and this was be the year 2015 was the projection down in this end of South Avenue. But the EA implies that it's just this end of South Avenue that is going to be impacted. If you see what happens, the 3300 car increase, it's 2300 cars by the time we get all the way out on South Avenue to Target Range, then it's an increase of 1000 cars from Target Range on down to Rosauers. Some of the cars would go up and it would be 500 cars moving down Clements. And of course since the bridge would be on South Avenue there's a reduction of traffic on North Avenue. One of the things that struck me was that even with the South Avenue alternative, the traffic on Big Flat would increase by 1000 cars a day. Traffic coming up Blue Mountain Road would be 1000 cars more. Another interesting thing was that O'Brien Creek was apparently fully developed because under none of the alternatives is there any increase in traffic above its current level and the revised version shows the same thing. When you go to the North Avenue alternative, that is in blue, your shift from traffic impacts on South Avenue to traffic impacts on North Avenue as you would expect. An increase of 1500 cars over the current level all the way out North Avenue, some of them coming down past the school, in fact it's the same amount of 1000 cars, and then the rest of them going out past Clements. If you look at the no-build alternative there are implications of that also. In fact, the only plus increase on the no-build alternative would be at the end of South Avenue, it's a reduction every place else. It's interesting that on Big Flat there's an increase of only 200 cars which is quite a bit less than under the build alternative so in terms of impact in this community it would be less under a no-build alternative. All the traffic would primarily be going up Blue Mountain Road. I'm not talking about the impacts to the individuals because admittedly people have the drive one way or the other depending upon the alternative that's selected. There are very real concerns in terms of emergency services, fire services, the things that people have already been talking about. What I'm talking about are the impacts to the community as indicated by the changes in traffic flow. The Target Range community has very many lifestyle characteristics that are important to the many people that live there. The information that's in the EA indicated that there are 200 homes on this side of the river that have access to the bridge, Not all of them use the bridge. And we don't have any idea how many homes are impacted on the east side of the river. Well I did my own windshield survey which was what was indicated in the EA . There are about 815 homes in this area that is encompassed in the area that is shown in the map that's in the EA. In terms of impact for the community of the no-build alternative of this 1150 cars that would be using Blue Mountain Road, there is about a dozen homes. Now that's no to say that those 12 people are more or less important than anybody else, the point I am trying to make is there are very significant social economic implications regardless of the alternative, whether it's a build alternative or a no-build alternative, there are significant social economic impacts. For Federal Projects, if there are significant impacts then you have to do an Environmental Impact Statement. I have several requests for you. First of all I would request that before you spend anymore of our money doing an EIS you wait until the transportation plan is updated so that we know how a bridge in the west side of Missoula fits into the overall transportation needs of the Missoula community. That need surfaces and has a high priority. The next thing I would ask is that you design a bridge, use the information from this study that's been done, to design at bridge that will protect and maintain the character of our community rather than destroying it. In the long run I feel very strongly that the values that are important now in Target Range will become even more valuable. What I am suggesting is not a no-growth situation or to deny access to anyone, what I'm asking you to do is to put together an alternative that will provide access, that will protect the values of our community that are going to be very seriously impacted under all of the alternatives that have been brought forward to this point. I have met with all of you individually and that's part of the American way to try and get our opinions across to you. I appreciate the opportunity to speak with you this evening and because of the fact that there are such significant impacts on our community we need to have an EIS. My last request is that you do not try to just push this through without doing an EIS and pretend that there are not significant impacts by issuing a FONSI--which is "a finding of no significant impact." All that will do is take up more money and be more decisive for our community ending up in legal hang-ups and that kind of stuff. I don't think that would be positive at all. Thank you very much for the opportunity to talk to you.

Harold Ort: Thank you again. Issues for Public Hearings are important matters to a lot of us. I just want to add about three points. Excuse me, I should identify myself. I am Harold Ort, the President of Hidden Heights Homeowners Association. A fundamental issue to us is that there is a vital need for a bridge across the Bitterroot. In the general area of where Maclay Bridge is now, without regard to issues of the preferred location. We need a bridge for many of the reasons that have already been stated. The school, buses, paramedics, all of the emergency services, fire... The costs that are involved when you lose a house or you lose a life or a busload of children are not in the study, but they are nevertheless there. The aspect also of whether it should be two-lane or one-lane, we like the bridge as it is but we've already been over that. So we think that a replacement bridge would require Federal Funds and therefore the new bridge will have to meet Federal Standards. So we support the design of a two-lane bridge. The third thing is that the people who are impacted negatively by wherever the bridge is located, that this has to be a big factor for what's designed for mitigating measures. For the traffic, for other aspects that are negative for those that are impacted that way. Basically we just want a bridge because we need it.

Charlene Miller: Charlene Miller is the president of the Target Range Homeowners Organization. She had some personal things to take care of and she wasn't sure she would be able to be here. So I will speak on behalf of her, I am Fred Stewart. She asked me to report to you the results of the Target Range Homeowners meeting that we had two weeks ago. There were about 85 people there and we had a panel discussion of the bridge and we had persons who spoke on both sides of the issue. Harold Ort, one of the people who just spoke made a presentation. George Bailey, who is the Superintendent at Target Range School, Mike Worrall was there, and Michael Kennedy. What Charlene wanted me to say was that in terms of a consensus among the people that were there and the membership of the homeowners organization is that most of the people feel that access to the west side of the river is an important issue, there are safety concerns on both sides of the river regardless of the alternative that may be chosen. The only "but" part of it is that many of the people on the east side of the river are very concerned about the impacts of the lifestyle and character of the community. There does seem to be a general feeling that, as the two previous speakers have mentioned, current access is acceptable to everyone. We just keep being told that we can't continue that and it has to go to something else that would be more impacting. But I think, and I would like anybody that was at the meeting that feels like I'm not giving a fair summary of our panel discussion to please do so but as the Vice President of the Homeowners Organization Charlene asked me to do this.

Orville Daniels: I'm Orville Daniels and I live at 1810 Riverside Drive which is at the end of Maclay Bridge on the west side of the river. I'm also the Supervisor of the Lolo National Forest and I'd like to enter comments in both capacities as Supervisor and personally and I'll start with the Supervisor comments and then I'll go to the personal. Since there is no conflict in them, that's pretty easy. I'd like to commend the Commissioners for taking on this project in a very proactive way of replacing the Maclay Bridge. It's certainly a divisive kind of issue. It divides friends, neighbors, colleagues and so forth. So it's not an easy one and I realize that. Speaking for the Lolo National Forest I'd like to say that a bridge is essential. We must replace the bridge. From two very specific public kinds of issues. One is access to the National Forest is speeded-up by the bridge for recreation purposes, and secondly we need that access rather than going around by 93 for emergency services such as law enforcement. Personally I have lived in the location that I am in now for 14 years. When I purchased the home I did check to see if there was an alternate route for a bridge and found that there was one. Part of my consideration is for emergency services, particularly for myself and my wife. I have had two heart blockages, I had another kind of problem in which I collapsed, and the ambulance was there in a matter of 4-5 minutes. If that bridge is not replaced, and any of the locations would be acceptable for emergency services, then that puts me in a situation that I do not like. I bought the house with the idea that the County had a bridge and I believe that it's fair to expect the bridge to continue to be in somewhat the same location. I'd like to comment on the idea of continuing to use a single lane bridge or particularly in replacing with a single lane bridge. There is absolutely no question about the liability to the County if we actually modify a bridge, change it enough that it is not grandfathered in, then if there is an accident the liability will come to the County because of the variance from the standards. I believe as a taxpayer that's a liability that I would not like to shoulder. The concept of delay while we go through a lot more process is also not very credible with me. The bridge could be closed at anytime because of flood or some other structure problem. I think we have to be proactive, move rapidly, get plan in place, it's going to take long enough to fund it, and that we move ahead progressively.

The preferred alternative is both socially and environmentally acceptable, and the process has been competently and professionally done.

John Lynn: Hello, my name is John Lynn and I would like to address you both as a Trustee from the Target Range School District and as an individual and member of the O'Brien Creek Homeowners Association. Let me begin by saying that we understand the prospective of those who are opposed to a new bridge along South Avenue primarily because most of us who live in the O'Brien Creek area moved up there so that we could enjoy a peaceful rural environment. We understand what it's like to be attracted to that kind of a neighborhood. It is unfortunate that a new bridge would impact the neighborhood that area in that way. But our concerns go beyond aesthetic concerns. We are concerned about fire and police protection, the safety of our children, and we're concerned about our own access to the downtown area in the most direct way. No bridge would mean several hundred households on the west side of the river would be cut-off from a direct

route to town. No bridge would greatly decrease our police and fire protection. The school children would have to spend an additional 40-60 minutes a day on a bus and would be transported along Blue Mountain Road which is a dangerous and substandard road with the river on one side and a ditch full of water on the other. It would also mean an additional $15,000.00 annually to the Target Range School District that we would have to take out of what is now going for education. The safety of the children along South Avenue is certainly an issue and we support the building of walkways or traffic light at Clements. I think that the safety of the children there definitely need to be taken into account. However, I don't think that is an insurmountable problem. Quite frankly I think that the safety of the children is compromised right now on Clements Avenue where we've got a 40 mph speed limit with no sidewalks. If you drive that at 8 o'clock in the morning you will see little children and bikes jutting out into the street and it's dangerous. Finally I would add that a Needs Assessment may add additional time and cost extra money. We know right now that there are 2000 vehicles a day using that bridge, that to me speaks for a need and I certainly hope that you will help us address it. Thank you.

Lorilee Evans: I live at 9750 O'Brien Creek Road and I just have a short statement. The Maclay Bridge issue is not an easy one for our community, but when the Maclay Bridge can no longer be used we must have a reasonable way to cross the river. To suggest we might not need a bridge is ludicrous when we currently have 1900 cars crossing that bridge daily. The County has given ample opportunity for input. A thorough study has been completed and we endorse its findings. Though we want the bridge to have as little impact on the existing neighborhood as possible, a two-lane bridge at the end of an already busy arterial is the most logical choice. Though we may not want to face the projected growth for this area that we live in, we have no choice but to accept the fact that the Target Range and outlying areas are growing rapidly and whether we like it or not will continue to do so. We must plan appropriately for the coming growth.

Doug Woolley: I'm Doug Woolley and I live at 680 Big Flat Road and I represent myself and my wife Ellen and family. I agree with my friends on the east side in that whatever happens impact them the least. The feeling that there doesn't need to be a bridge I would hope is just a rumor and a myth because I think we've spent enough of taxpayers money, mine included. If we're just studying it just for the sake of studying it without the idea that there really is a need, I would hope that we close this fairly quickly because I don't feel we are getting anywhere, at least with the money that's been spent. I think planners need to be paid and they need a job. I would like to think that we are planning something that is going to come to fruition not just because we are interested with regards to what supposedly came up in the Missoulian with Senator Burns' statement that he was not aware that there was a need. My impression is that when one of my highest state elected representatives makes a statement that he is going to get us a bridge and that Federal Funds are going to be made available then I lean back and am reassured that indeed something wonderful is going to happen from Washington. When it turns out that negative comments and the people in the community that feel nothing should be impacted, well, we are going to be impacted one way or another. If we look at what finally happened with Reserve Street, I was impressed when the final date came and it opened and we had 4-lanes of traffic going which way and it looked like there was hardly any traffic at all. All you had to do was come down to 3rd Street heading east into town, turn left and try and get up over the overpass and try to get out to the interstate, my shortcut into town has died! I'm not really sure how much all of the Environmental Impacting and all the counts that we have got and all the estimates about how accurate we are because if we planned that long and that hard to improve Reserve Street and end up with the mess that we have got now every morning. I'm not impressed with planning. That's not to say that everything that I do turns out right either. My feeling of Blue Mountain as a route alternative I'm not impressed with although I don't mind the challenge of driving it. Coming from the Great White North and driving on slippery roads in the winter time is my idea of fun but I can't talk my wife into it. She is absolutely aghast every time our 17 year old takes a vehicle and heads to Lolo to visit her friends. I don't know whether indeed what the cost impacts are obviously from proofing that way are but my preference will be go the other way into town and go down Mullan Road. Essentially what it will do is that a physician will cut-off any need that I have to go to Community Hospital as any type of a preference. For my colleagues who are based at Community I think that really does make it difficult to respond the way you would like to in an emergency situation. I appreciate your time and I hope that this all comes to a conclusion fairly quickly.

Bill Brown: Good evening and thank you for hearing us this evening. I am Bill Brown and I live out O'Brien Creek Road and I only have a few brief comments. First I'd like to lend my voice to those endorsing the need for a bridge. I am one of the veterinarians that does use that bridge and I suspect that I probably put more miles on the combination of Kona Bridge, Big Flat Road and Maclay Bridge than anybody in that area since I'm in the car pretty constantly and most of the horses in Missoula are on this side of town. I hate to hold irony to what was said tonight that there are bridges that obviously made the priority list around the state that are being built as one-lane bridges that clearly had enough traffic to justify them being built and yet we have too much traffic to justify a one-lane bridge and yet we're still not building anything. I think we ought to bear in mind that there is a little foolishness there if that is true. I have no problem with the process, the location, what we're doing here tonight except that I think we are having Kona Bridge rammed down our throats by Federal Bureaucrats, and if anything I think that's the common ground between the east and the west sides. I find it kind of sad and probably a little embarrassing if we can't find a way to build a structure that will meet the needs of the west side of Missoula, the Big Flat/O'Brien Creek area, and the people living on the east side of the river that seems right to us. It will be adequate for the needs of that area for the future and yet we have

to build some over-engineered monstrosity because: A - somebody doesn't want the liability and B - because some Federal Bureaucrat thinks that is the minimum bridge that will do the job. I thing we should devote our efforts not to arguing about whether or not we should have a bridge because we need a bridge. We should devote our efforts to figure out some way to build a bridge that will meet our needs, that will be minimally destructive to the community, and adequate for the traffic in the foreseeable future. The Kona Bridge I suspect does not come anywhere near meeting its projected traffic flows. I drive it all the time and never see a car. I ride my bike across it and I hardly ever see a car. It's got two very large lanes, two very large shoulders and a walkway. I just question whether we need that kind of a structure at that kind of expense. I'd like to see us find some alternative-- there ought to be some common ground and I think we ought to devote some effort to finding that. Thank you.

Steve Powell: My name is Steve Powell and I live on the west side on Horseback Ridge. I have attended other meetings held out at Target Range before and I think it's pretty clear that we need a bridge. Unless something happens, which may not be a bad idea eventually to move some schools out toward Kona Ranch Road and emergency services to serve the Big Flat area. If that doesn't happen we have got to have a bridge. I think people on both sides of the issue are probably pretty close to that idea. The last meeting that I was at there was a lot of discussion at Target Range that there may be something less than a big monstrosity of a bridge that would suit our needs. Something that would not really change the flavor of the neighborhood very much and leaving it in the same area has some advantage where the traffic coming across the bridge is now instantly diverted right or left. Either toward Target Range down South Avenue or toward town down Clements and so you sort of stop this funnel effect. The thing that really concerns me about a big bridge besides the terrible impact it has on the people on South Avenue is the fact that some people coming up Highway 93 are all of a sudden going to see this new way to get across the river and they are going to start coming down Blue Mountain Road. That may cause us to build up Blue Mountain Road and that's going to really increase the amount of traffic along that area. That's a concern to me long term. The last thing is that I question is the Federal Government's determination there's a need for them to spend money to let the people in O'Brien Creek and Big Flat Road come across the Bitterroot River. I think it's great the Senator Burns is all in favor of spending that money initially, but I don't know why they do it. If that's the way Federal money is being spent, and we know it is, we can see where the problem is. It seems to me that if there is some way to go along with these sentiments that were aired and were listened to and nodded at by the engineers at the meeting at Target Range that I was talking about last summer, that perhaps we should just bite the bullet and come up with some locally funded, less splendid, less over-engineered bridge and try to please a lot of people. Obviously the people along North Avenue wouldn't like that as much and I don't blame them. It would also continue the problem of a sharp turn on River Pines Road with school buses going along quite close to the river with no guard rail which I think should have been handled a long time ago. I think that should be taken care of right now with or without the bridge. There ought to be some lesser, higher impact bridge structure that ought to be able to be completed. Thank you very much.

Dana Headapohl: I want to thank you for the opportunity to speak before this group. There are more things uniting the east and the west side than are really dividing us. I don't think there's much disagreement about the provision of fire vehicles and so forth. I do think there are some options such as providing local fire protection and local emergency vehicle response that haven't been explored. I think we generally agree that people on that side of the river need to have some access. I have real concern, I come from both a medical and engineering background and I do have some significant concern about the way this process has progressed. It seems to me that we have not had a front-end part, and the front-end part is exactly what Dr. Powell and other folks have been talking about. No-build as the only alternative does not make sense. There are other alternatives. It seems to me that $140,000 or whatever was spent on this process is too much to spend for a black or white situation. I think we need to be looking at the grays and looking at compromise, I think that's what this community is all about. These choices do not allow for a compromise and they do tend to divide a community that can not afford to be divided. There are lots and lots if issues we need to work on together and this is one of them. I would like to see some other alternatives looked at that weren't addressed. I also have some concerns about the Environmental Assessment itself. One of the specific areas which will be addressed a little later on is the Wetlands Determination. It was not adequately done according to the guidelines. This is one are that I looked at rather closely and this makes me wonder about other parts of the EA. It is clear to me that a project of this size could not possibly have no significant impact. But that is the tone of the Environmental Assessment, and there are portions of it that were not adequately done. Again, I would encourage you to hear what the community is saying. I don't think we're saying things all that different. I think what we are saying is that this is a community that is filled with creative, inventive people. Let's look at options other than a maximally built bridge. Let's look at what the community can do. I'm not sure that Federal Funds will be available anyway. Let's not waste $140,000 or whatever it costs for this study. Let's look at something that is a compromise and really does reflect the community's wishes. I don't want to see the community divided. I would like to see the east and west have a compromise solution. Thank you.

Byron Olson: Thank you for this process and the study and the interest that has been shown for the problem and for the replacement. There was a real surge of enthusiasm among many people when even the possibility began to be discussed and I really appreciate the depth with which you have approached the possible replacement. I think it's preparatory towards the future need to replace even if somehow Federal Funding

doesn't come through. So this is a worthwhile process. It's hard not to be repetitive at this point. I would like to emphasize that emergency lifeline runs two ways across the Big Flat Road and Maclay Bridge. There are a number of physicians out there, I am one of them. There are times when time is of the essence in the other way and it's possible that we can develop a ambulance system that serves Big Flat somehow. I don't think they will be transporting us the other way and there are many other key individuals who live out there but there are certainly three that deliver babies at Community Hospital that chose their home, chose their location, with every assurance that there was a two-way lifeline across that bridge. I think it's crucial that we recognize that a whole community has grown-up with this lifeline in mind. Not as a temporary or not as a maybe-it-will-continue, but it's there and it's a reality. The reality on the east side of a lifestyle is duplicated on both sides. We're all very sympathetic to that and that's why many of us live on the west side. I see no problem with impact on the east side from the standpoint of very carefully regulating the speed limits on the east side. There is no reason to have traffic moving rapidly through a current residence just because a bridge is built. There are people respectful of school zones throughout this town on all sorts of roads. It's our children who go to Target Range School so these are not key issues. The safety issue to me is much greater when the bridge is not there. Anyone who has driven the Blue Mountain Road in the winter knows what I'm saying. There is a significant increase in time movement from the west side all the way around in either direction to key central areas in town. I think the need for the bridge is clear. I am especially concerned about the conversion travel and the routine travel of children because I really don't see how we are going to safely transport school children around that corridor without a bridge. The community on the west side that has grown-up, which is a comprehensive community, is like a well constructed, developed entity such as a fine table but suddenly deciding later to remove the legs really leaves us with a problem. Something has got to replace those legs if they are worn out.

David Morey: My name is Dave Morey. I live on Hansen Drive which is at the extreme west end of South Avenue in the shadow of the preferred alternative bridge. When this development first came about I was very apprehensive, but presently the need for a bridge is obvious whether it's at that sight or any other sight. My main concern is that regardless of the siting or size of the bridge that the entire effect of the bridge be considered and all effects mitigated. I hoped that the fact of a bridge would fit into a long range plan. Such a key structure will allow not only access that we are discussing but I'm afraid that it could actually stimulate development in itself and cause a cycle of growth which would possibly cause even the Federal Standard bridge to be inadequate at some time. Without any fitting of it into a comprehensive growth plan this could happen. As I said I live at the extreme west end of South Avenue, I have two small children, one going to and the other soon to be going to Target Range. I have many friends whose children walk along that road and safety is an urgent concern for the pedestrian children. I haven't seen adequate address of that situation in the report. On the other hand, the previous speaker stated there is the need for safety for the children who are bussed. I don't want to see this be an east versus west kind of situation. I have very dear friends who live on the west side. I recognize they need the bridge. Their children go to school with my children and we are all one community, it's not divided by a ruler. A lot of what I was going to say has been said so I will just summarize by saying that all of the entire effects of the bridge are recognized. I compliment the study but I feel it is too narrow in scope. Thank you.

Charles Stevenson: Good Evening. My name is Charles Stevenson and I represent the Blue Mountain-O'Brien Creek Homeowners Association. We would like to endorse and support the construction of the replacement bridge for Maclay Bridge when it goes down. I think that we should bear in mind that this is a replacement structure for an old, aging bridge that needs replacement. At one time Maclay Bridge was servicing the west side of the Bitterroot River with heavier traffic than it is now and I think what we need is to just replace this structure. I think the need is there and everyone in my Homeowners association feels there is a strong need for the bridge. We think that the EA was conceived and executed well and expresses an accurate status of the way things are out there. Thank you very much.

Larry Martin: My name is Larry Martin. I would like to lend my support to those who have spoken in favor of an attempt to find a compromise position and avoid the all-or-nothing dichotomy that has characterized some of the debate. All being a huge bridge which has a massive increase in traffic with it and a very significant negative impact on the east side on South Avenue and streets close by there versus nothing being no-build leaving the west residents in an understandable state of concern about how they are going to be served with regard to ambulances, police and so forth. I would like to try to find some kind of middle ground so that access is preserved without destroying the Target Range-South Avenue-Orchard Homes area. I have to think that it is possible with all of the energy and intelligence that is available in this community. There ought to be a way to do that. That having been said I would like to narrow my focus to the Environmental Assessment. It became evident to a number of us who have been following the process that it was highly likely that the Carter & Burgess EA would make the claim that there was no significant environmental impact as a result of their preferred alternative which is the South #1 bridge. A number of us disagreed with that conclusion which we anticipated would be reached and we therefore contacted an independent assessment firm, namely Bitterroot Native Growers Consulting Firm from Corvallis, and asked them to do a resources survey which they proceeded to do. I'd like to take a couple of minutes to read you a few relevant exerts from their study if I may. I would hope that this will enter the official record as a counter-statement to the existing Environmental Assessment. Their conclusions run along the following lines: "The current vegetation found within the proposed bridge sight, property adjacent to the Bitterroot River, indicates that the area may qualify

as a jurisdictional wetland under the US Fish and Wildlife National Wetlands Inventory. A full wetland delineation should be conducted next spring or summer to make this determination. That was not done in the EA that we have before us. In order to do a full wetlands delineation it would be necessary to be on the sight. We have in writing the statement of the subcontractors for Carter & Burgess that the individual doing the survey did not set foot on the east side of the proposed bridge sight. Therefore it would be have been impossible for him to have conducted a Wetland Delineation. I'm quoting again here, "Results from the walk through survey, (our consultants were actually on the property in contrast to the Carter & Burgess Consultant who was not on the property,) "of the existing Maclay Bridge sight indicate that there is potential for significant impacts to all resources studied. Soils at the existing bridge sight are eroding due to high levels of foot traffic. Increased sedimentation to the stream channel and a new bridge location both during and after construction would have significant effect on fisheries, habitat, and water quality. A comparison of wildlife species observed at the present and proposed bridge sights indicate that increased traffic and recreational use may contribute to the reduction of wildlife habitat and impact wildlife use at that sight." NEPA requires that if during an EA it is determined there is potential for significant effects, an Environmental Impact Statement must be prepared to disclose the effects. The draft EA does not contain a list of threatened and endangered species which need to be considered. This list must come from the US Fish and Wildlife Service and should contain all plant and animal species threatened and endangered. There is no indication that a survey was conducted at the preferred sights. There could not have been because they were not on the sight. No Wetland Delineation was conducted on the proposed sight. Our conclusion, the conclusion of BNG Consultants, is that an EIS is required for the Maclay Bridge project. Thank you.

Michael Kennedy: In a practice like this when you jump into the middle of the process and determine a need without following a protocol you are likely to have a kind of division that is really evident in the community over this process for the bridge. It simply is not needed and I would suggest that there was a protocol established by the Environmental Protection Agency, NEPA and others, that had it been followed that the process would have been much different and the testimony would have been more considerate toward both sides. I am really concerned about that. It seems to me this process that was followed was wrong where commissioners made a decision that a new bridge was needed and made a contact in order to finance the bridge and then hired a consultant to somehow justify the bridge. So here we are, at $162,500 dollars later not close to a solution. The proper protocol is to acknowledge a problem, determine a need, which was not done and this is not to say there is no need, but there is a protocol in establishing a need. When you do that it takes into account what a community is really like and it talks about the future and the planning of the community which simply hasn't been done. So there is no acknowledgment of that because there was no need studied. After that you examine the planning documents if they happen to exist with respect to that particular area and clearly there are none. There is no traffic plan in that area. Generally the traffic plan that does exist doesn't take into account the traffic in that particular area simply because when it was prepared the traffic corridors were in other places. Currently you have underway a proposal to do a traffic analysis and obviously that will be included in it on that side of the river because clearly there is traffic over there that needs to be addressed in the long term plan. Study alternatives and a thorough discussion of how that impacts the overall quality of life in the community is needed, that certainly was not done because the EA is isolated to the bridge and its surrounding environs and it really doesn't discuss what the impact is on the overall community. In my analysis of the Environmental Assessment as a Consulting Engineer, I found all kinds of interesting data which need to be thoroughly discussed. Some of those data have to do with the overall pollution effects of the added traffic that are caused by that structure. I did not hear any testimony by anyone that addressed that. Simply stated, when we have a structure like Reserve Street by virtue of the fact that it's there, it will produce traffic and the traffic will produce pollution. What we found on the Maclay Bridge was that there was an interesting traffic analysis done during the time that the bridge was out of commission and that traffic comparison was interesting. In that there was a 30-35% reduction in traffic when the bridge was out of commission. So what that suggests is that there is a lot of driving which is not necessarily driving, it's convenience driving. Well as a technocrat it's difficult to put a handle on convenience driving. Convenience driving does add an increment to our pollution in this community. The Air Pollution Authority recently added wood stoves to the list of things that we no longer will have to put up with in new dwellings and certainly that was a good thing. The idea of that was that we acknowledge clean air and water in this community is a vital concern. At the same time, when we jump into the midst of a project and we construct something we will add substantial amounts of air pollution. We may undo what we did by banning wood stoves. There needs to be an EA and a really thoughtful consideration of what that is. I think the entire EA is not all inclusive because it doesn't take into account the overall livability of that section of our community. Number one, what it will do is establish a new east-west corridor which currently does not exist. There is no east-west traffic corridor in Missoula, it does not exist. Should we construct a new bridge on South Avenue, it will exist simply because we will have unlimited loading rates on that bridge and will open it to any kind of traffic that wishes to pacify it with no restriction. That traffic alone not only will increase in volume but will increase in size and in speed whether there are speed limits or not, and this will have a remarkable impact on that part of the community. That needs to be acknowledged and thoroughly looked at and studied in this EA. Beyond that, I think if the EA followed the protocol it would be perhaps adequate. Usually what happens is that EA's are not challenged unless there's really a severe challenge to either the process or the project. Obviously the people are doing a better job of being conciliatory on both sides of the bridge than the process would suggest they ought to be. If the process was properly done I believe that the people would be even more conciliatory and would back whatever proposal was determined to be the one. Whether it be a new bridge, no bridge, a different location

APRIL 27, 1994 (CONT.)

for the bridge or an alternative transportation system altogether. We seem to be forced into accepting what the Federal Government will give us because obviously they take money out of our pockets and spend money in our community for our bridge. We then have to do it by there design or else. The problem there is totally against what we may want for our community. We may want what they want, but we haven't been asked. We need to be asked, we need to have an input and be able to make that conscious decision as to whether or not we want that size of facility or whether we would willingly use something considerably smaller. My final comment would be that without the input of the community about the livability in that particular area and without following the proper protocol, you can't advance this project without going through an environmental impact statement. That will be challenged and it is going to happen. It seems that under that circumstance that the $162,000 dollars that was spent for the project was spent well before the time that it was needed. One last thing, the bridge has been adequate for the existing traffic for a lot of time and I appreciate the geometrics of it, I appreciate that there is a liability issue with it, I also appreciate the fact that people do use it and they use it relatively safely. I feel there is probably more years of life in the bridge than the consultants would like us to believe. I have looked at all of the studies and all of them suggest that there is 10-15 years of remaining life and each year that goes by that seems to remain. I think that we have time at least to analyze what the overall needs are of that particular area and also to ask the community what they want with respect to the livability quotient in Missoula, with respect to air and water quality, traffic and noise and all the rest. Not just in that narrow environs of that bridge corridor but all through southwestern Missoula.

Sam Johnson: Just a quick comment on his increase of air pollution across the bridge. I can't see where a quarter or half mile of asphalt and concrete is going to compare in air pollution. What will be created, like I mentioned before when I was up, going across the Blue Mountain Road on nearly 3-miles of dirt. I'd just like to make that point very clear that there will be a lot more pollution on the Blue Mountain Road than there would be on the asphalt. Thank you.

There being no further comment, the hearing was closed.

Attendees were thanked for coming and for being thoughtful to one another as neighbors. It was announced that written comments will be received until May 24, 1994. The meeting was adjourned at 9:10 p.m.

APRIL 28, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present in the forenoon. Commissioner Dussault was out of the office all day on April 28th and 29th, and Commissioner Hart was out of the office all afternoon.

Audit List

Commissioners Evans and Hart signed the Audit List, dated 4-27-94, pages 4-34, with a grand total of $155,401.06. The Audit List was returned to the Accounting Department.

Indemnity Bond

Acting Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Marvin Enderlin as principal for warrant #33746, dated March 10, 1994, on the Target Range School Payroll Fund in the amount of $21.65 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-049

The Board of County Commissioners signed Resolution No. 94-049, a resolution creating RSID No. 8452 for the purpose of constructing a sewer collection system for a portion of Linda Vista 3rd Supplement, Missoula County, as per the items and terms set forth.

Contract

The Board of County Commissioners signed a Contract between Missoula County and 3 M Business Products/Capital Business Systems for the purchase of two (2) microfilm reader/printers for the County Clerk & Recorder's Office, as per the terms set forth, for a total payment of $21,540.00. The Contract was returned to the Clerk & Recorder's Office.

Extension Letter

The Board of County Commissioners signed a letter to Andy Fisher at Eli & Associates approving a two-month filing extension for Anderson-Bucklew Acres, making the new filing deadline June 25, 1994.

APRIL 28, 1994 (CONT.)

Other items included:

1) the Commissioners reviewed and approved the audit of the Animal Control Office of the Missoula County Health Department for the period from July 1, 1991, through June 30, 1993 (Fiscal Years 1992 and 1993). The Audit was forwarded to the Recording Office for filing;

2) the Commissioners voted to accept the negotiated audit fees of $48,500 for FY'94 and $52,000 for FY'95 with Elmore & Associates; and

3) the Commissioners agreed to the one-time charge of $900.00 for auditing the the Commissioners minutes.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

APRIL 29, 1994

The Board of County Commissioners did not meet in regular session; Commissioner Hart was out of the office all day. In the forenoon, Commissioner Evans attended a conference call meeting of the Judicial Standards Commission, which was held in Judge McLean's conference room in the Missoula County Courthouse.

Vickie M. Zeier
Clerk and Recorder

Fern Hart, Chair
Board of County Commissioners

MAY 2, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Deed Restriction Agreement and Subordinate Deed of Trust

Chair Hart signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with downpayment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

> Shannon D. Schmitz and William Troy Calvert, in the amount of $20,000.00, for the property at 920 Washburn in Missoula, dated April 28, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Agreement

Chair Hart signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences to provide for the delivery of comprehensive outpatient health and support services to meet the needs of HIV-infected individuals and their families, as per the items and terms set forth, beginning April 1, 1994, through June 30, 1995, for reimbursement to the County by DHES up to a maximum of $3,000.00. The Agreement was forwarded to DHES in Helena.

Agreement

Chair Hart signed an Agreement between Missoula County and Iroquois Industrial for structural stabilization, wood preservation, new roofing, and new announcers booth, stairs, walkways and railings for the grandstands at the Missoula County Fairgrounds, as per the terms set forth, for a total amount of $61,154.00. The Agreement was returned to Doreen Culver, Bidding Officer, for further handling.

Contract Addendum

The Board of County Commissioners signed the final Program Income Plan Addendum to Contract #MT-HOME-92-06-05 between Missoula County and the Montana Department of Commerce for the 1992 HOME Project, removing the sections regarding required reimbursement to the HOME Investment Account in the event the original HOME investment is not fully recoverable on a subsequent sale of a HOME-assisted property, as per the written documentation and clarification from HUD regarding this issue. The Addendum was returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Merchant Agreement

Chair Hart signed the certification portion of the Merchant Agreement enabling Missoula County to accept Visa/Mastercard in the County Treasurer's Office and the Department of Motor Vehicles. The Agreement was returned to Michelle Denman in the Treasurer's office for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MAY 3, 1994

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

Audit List

Commissioners Dussault and Evans signed the Audit List, dated May 3, 1994, pages 4-41, with a grand total of $207,003.99. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Deed Restriction Agreement and Subordinate Deed of Trust

Chair Hart signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with downpayment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

> Susan L. Nose, in the amount of $8,612.00, for the property at 333 West Kent in Missoula, dated April 29, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Resolution No. 94-050

The Board of County Commissioners signed Resolution No. 94-050, a resolution creating RSID No. 8457 for the construction of roadway improvements to portions of Humble and Sundown Roads, Missoula County, as per the items and terms set forth.

Resolution No. 94-051

The Board of County Commissioners signed Resolution No. 94-051, a resolution revoking the agricultural exemption on Tract A of Certificate of Survey 2622 owned by Gaylon F. Owens to allow him to relocate the boundaries to create a larger parcel to comply with zoning and to be used for residential purposes.

Resolution No. 94-052

The Board of County Commissioners signed Resolution No. 94-052, a Budget Amendment for FY'94 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Budget
As per attachment to the Resolution which is on file in the Budget Office	$4,000.00

Description of Revenue	Revenue
Deicer Study 2272-000-331327	$4,000.00

New DHES contract no. 240109, federal catalog no. 66.001.

Resolution No. 94-053

The Board of County Commissioners signed Resolution No. 94-053, a resolution to amend Zoning District 25A to extend the boundaries of the district. The affected property includes the W1/2 of Section 13 and all of Section 23 less Government Lots 2 and 3 in the W1/2, T19N, R17W, PMM, and a 200 foot strip measured from the shoreline in Sections 26, 27, and 35, T19N, R17W on Lindbergh Lake, and the SE1/4 of Section 14 on Lindbergh Lake.

Resolution No. 94-054

The Board of County Commissioners signed Resolution No. 94-054, a resolution to authorize Chair Fern Hart to execute and file an application on behalf of Missoula County with the DNRC and DHES of the State of Montana for a loan under the Montana Wastewater Treatment Revolving Fund Act to aid in the construction of RSID Nos. 8452 and 8453 for the construction of a sewer collection system for a portion of Linda Vista 3rd Supplement and the Linda Vista/Lower Miller Creek area in Missoula County, Montana, and also authorizing the Chair to furnish such information as the State of Montana may reasonable request in connection with such application and to sign all necessary documents and receive payments.

CTEP Project Proposal

The Board of County Commissioners signed as the government sponsor for the following proposed CTEP (Community Transportation Enhancement Program) project: landscaping, including stone structures, fence and trees, around the Ninemile Valley Community Center, which is adjacent to the Ninemile Road. The proposal was returned to County Surveyor Horace Brown for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MAY 4,1994

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

Monthly Report

Chair Fern Hart examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending April 30, 1994.

DAILY ADMINISTRATIVE MEETING

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

Deed Restriction Agreement and Subordinate Deed of Trust

Chair Hart signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with downpayment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

> Teresa A. Smith, in the amount of $13,988.00, for the property at 1726 South 9th West in Missoula, dated May 2, 2994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Interlocal Agreement

The Board of County Commissioners signed an Interlocal Agreement prepared by the Counties of the Western Region (Ravalli, Missoula, Lake, Mineral, Sanders, Flathead, & Lincoln) and the Confederated Salish & Kootenai Tribes for the purpose of providing for regional juvenile detention services for the benefit of the parties to the Agreement, as per the items set forth, commencing July 1, 1994, and shall be in effect for an initial term of ten years after which it will be automatically renewed for an additional 10 years unless one or more of the counties withdraws or terminates the same. The signature page was forwarded to Earl Bennett, Administrative Assistant in Flathead County, for forwarding, along with the 1994-95 Regional Juvenile Detention Plan and Budgets, to the Board of Crime Control.

Memorandum of Understanding

Chair Hart signed a Memorandum of Understanding between the State Department of Commerce and Missoula and Lincoln Counties outlining the conditions for which the Department will disburse funds totaling 1.2 million dollars received from Plum Creek, Champion International and Stimson to the Counties for economic development purposes. The Memorandum was forwarded to Jon Noel at the Department of Commerce for further handling.

Quitclaim Deeds

The Board of County Commissioners signed three (3) Quitclaim Deeds from Missoula County to the following for the purpose of clearing up titles in the Gleneagle-Grantland area:

1) to Mark A. and Verna R. Denton for a tract of land located in the E 1/2 of Section 32, T. 14 N., R. 19 W., and the W 1/2 of Section 33, T. 14 N., R. 19 W., PMM, Missoula County, and being more particularly described as Tract 2 of Certificate of Survey No. 4079;

2) to Dennis R. Washington for a tract of land located in the E 1/2 of Section 32, T. 14 N., R. 19 W., PMM, Missoula County, and being more particularly described as Tract 5A of Certificate of Survey No. 4210; and a tract of land located in the SE 1/4 of Section 32, T. 14 N., R. 19 W., PMM, Missoula County, more particularly described as Tract 6 of Certificate of Survey No. 4079; and

3) to Dennis R. Washington for tracts 1-2, 1-3, and 1-4 of Certificate of Survey No. 3394, located in the W 1/2 and NE 1/4 of Section 33, T. 14 N., R. 19 W., PMM, Missoula County; and those portions of Tract 1-5A, 1-6A, 1-7A, 1-8A, and 1-13A of Certificate of Survey No. 3446, located in the W 1/2 and NE 1/4 of Section 33, T. 14 N., R. 19 W., PMM, Missoula County.

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

Other items included:

1) the Commissioners reappointed Horace Brown, County Surveyor, to a three-year term on the Missoula County Park Board through May of 1997; and Susan Brown was appointed as the First Alternate Member of the County Park Board through May of 1995; and

2) the Commissioners approved purchasing one 1994 City Directory for the Commissioners Office.

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Fern Hart. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

DECISION ON ROSSIGNOL ORCHARD TRACTS - PRELIMINARY PLAT POSTPONED FROM APRIL 27TH

Fern Hart explained that at the Public Meeting on April 27, 1994, attended by Fern Hart and Barbara Evans, the staff report was presented on the preliminary plat of Rossignol Orchard Tracts. All motions regarding this issue died for lack of a second. The result was to postpone action on the plat until Ann Mary Dussault could be present.

Ann Mary Dussault asked that Barbara Evans and Fern Hart summarize their areas of concern.

Barbara Evans explained that the Planning Board and the OCD staff recommended approval of the subdivision. Without counting the second piece of property for figuring overall density, a tentative agreement was reached between the developers and representatives of the Lolo Community Council to change the proposal from multi-family to duplexes. If the 12 acres were divided by six units per acre, the overall density complies with the Lolo Comp Plan. There was a question at the time of whether or not multi-family meant anything other than single family dwellings. She said based on previous plans and the staff's interpretation, multi-family is in reference only to those areas designated as 16 units per acre. She said during a meeting with Peter Templeton and Peggy Chilcote, there was not a clear consensus as to what they wanted, but they stated they agreed with the developer's recommended changes. The plat is comparable to the previous Rossignol Orchard Tracts No. 1. She said this area is within the City's building inspection area and would be under the requirement for square footages for multi-family. This particular issue was not agreed upon by Fern Hart or herself. However, because the developers have replaced multi-family housing with duplexes, there may not be a problem.

Fern Hart said she missed the meeting with the representatives from the Lolo Community Council. She said her concerns about the subdivision included the multi-plexes. She said someone mistakenly thought that the developers had proposed a six-plex which was incorrect; the developers proposed only four-plexes. She said she was concerned with lessening the square footage per family unit. The Planning Board recommended 4,050 square feet. The City's recommendation for square footage for one, two and three bedroom units was based on 16 units per acre. She said if she had known this, she would have been firmer last week. The Planning Board recommended a park, not cash-in-lieu. After hearing the discussion about parks, she believed that a park was in the best interests of the Lolo citizens. There will be over 100 units in both the subdivisions. A park located somewhere in this area would be important.

Barbara Evans said the developer's meeting with Peter Templeton and Peggy Chilcote ended with a consensus to have a tot lot in the subdivision. She said the developers are willing to take one or two lots in the subdivision in a good location to develop a tot lot. The developers will donate the value of the cash-in-lieu donation for the development of the tot lot. If there are monies left over from the costs to develop the tot lot, these will go into the County Park cash-in-lieu fund.

Fern Hart said she had concerns about how the development will really look. When a lot of multi-family units are placed in one area, this creates a kind of distinction. If single family and multi-family are mixed, then all sorts of families are living together. She asked for information about the proposed garages and places to park as well as the exact size of the tot lot.

Nick Kaufman, WGM Group, referred to his memo addressed to Ron Ewart of OCD. The first page of the memo discussed issues relative to the R-6 residential zone. The second page discussed the Commissioner's approval of the first subdivision of Rossignol Orchard Tracts and showed the difference between the sizes of the lots from the subdivision to the adjoining Lakeside Addition. It spoke about the preapplication meeting with the Office of Community Development where there were no objections to the multi-family units on lots 41-49. On April 4th, the staff recommended a one acre park which would eliminate six lots. On April 5th, the Planning Board recommended that four lots be given for a park adjacent to the railroad grade. The Board also recommended 4,050 square feet for a dwelling unit. On April 27th, the Commissioners held a hearing on the subdivision where it became clear that it was

important to Commissioner Hart that there be 4,050 square feet per dwelling. Also, the concept of multi-family was a hard issue for the residents of Lolo because of the precedent it would set. He said there still may be different interpretation on what an R-6 zone is. He said it was their interpretation that an R-6 would allow townhouses, attached townhouses or duplexes. To try to come to an agreement with the residents of Lolo and the Commissioners, they suggested that the subdivision be allowed to have single family detached homes, duplexes and townhouses at a density which does not exceed six units per acre. The minimum lot area would be 4,050 square feet. They proposed to take the multi-family designation out. The duplexes may be in the form of a townhouse or a typical duplex. Regarding the issue relative to the park, he said a large park is certainly needed on the east side of the highway. The school land is located in this area. The residents should work to obtain a lease from the school and do some non-permanent improvements such as irrigation, play fields, and shared parking. The developers propose to develop a tot lot within the subdivision for parents and their small children. This lot would be approximately 7,000 square feet.

He spoke about their proposal for the design of the duplexes. The duplexes could be owner-occupied or own one side and rent the other. He said they have tried to design these units to meet the majority of the concerns. These changes will necessitate an amendment to two of the conditions: the condition on park land dedication and the condition dealing with multi-family units.

Fern Hart thanked the developers for their willingness to compromise. She then excused herself from the meeting to attend a funeral.

Nick Kaufman explained there are about 14 lots that would work for duplexes. The number of units would calculate to 71 units. Six units per acre would calculate to 76 units. The larger lots would contain the duplexes or townhouses with detached single family dwellings on the remaining lots.

Peter Templeton, Co-Chair of the Interim Community Council, referred to the meeting with the developers. He said he wanted to take some kind of position on the proposal, but it has gotten so muddy that he didn't know what was being proposed. He said he and Peggy Chilcote intended that number of various ideas and proposals that were discussed at this meeting be presented to the Commissioners. The decision is completely the Commissioners'. He said the Lolo Comp Plan is up for interpretation with regard to density. There is a difference of opinion as to the interpretation of how the plan was written. Some interpret the plan as saying no multi-family in the area east of the railroad tracks. Others interpret the plan as allowing certain multi-family. However, there has been no decision as to what this would involve such as duplexes, four-plexes, etc. The way the Comp Plan is written, it allows for a commercial band along the highway, a transitional zone of high density and multi-family units, and then residential. In Peggy Chilcote's view, the residential area should be totally exclusive of any kind of multi-family dwellings. The community is divided on this issue. The Commissioner's decision represents how the Plan should be interpreted and what the complexion of the area should be from this point forward. He said the waters have been muddied due to a twelve-plex that was built in the area years ago.

He referred to the parks issue. The residents of Lolo would like to see a big park in this area. However, this will take much time. He said he wanted to see a big park constructed in this area so large developers would not have to deal with this issue. However, 100 homes are going to be built before a large park can be constructed. He said the Council is in the process of meeting with the School Board to negotiate a lease for their land, but they do not know how this will turn out.

Barbara Evans asked Nick Kaufman to explain their whole proposal.

Nick Kaufman said their first proposal remained consistent throughout the initial preapplication meeting with OCD up until the public meeting on April 27th which was for a 57 lot subdivision with lots 41-49 allowing for multi-family development and cash-in-lieu of park land. The only time they have amended the proposal was in response to the April 27th meeting. He explained that they proposed the removal of the multi-family units from the request; to leave in single family detached, duplexes and townhouses; and keep the density at six units per acre with a minimum lot size of 4,050 square feet per dwelling unit. He said this is a request to amend the Planning Board's recommendation. It is important to have a place for the parents to take their young children to play. He said instead of sticking with total cash-in-lieu, they proposed to develop one 7,000 square foot lot as a tot lot using the cash-in-lieu monies. Any remaining funds after the development of the tot lot would go into the County park fund to meet the one-ninth park requirement.

Ann Mary Dussault asked what the definition of a townhouse was.

Nick Kaufman said a townhouse is a form of ownership where two owners have a common wall, but each owns their side of the building and the land in fee. The benefit to the neighborhood is that the unit will be owner-occupied in its entirety. The townhouses will be restricted to two units with a single wall.

Ann Mary Dussault asked about the cash-in-lieu funds from the first subdivision?

Nick Kaufman said the original amount was approximately $3,200.00. The second subdivision, based on the same formula used to calculate the first subdivision will be approximately $4,200.00.

Ann Mary Dussault asked what the value of the development of the tot lot would be? How much money did the developer anticipate would remain for the donation to the cash-in-lieu fund after the development of the lot?

Ken Allen said the proposed lot is 7,000 square feet. The cash-in-lieu would be a little over $3,500.00 which would be used to develop the park. The value of the undeveloped lot is $700.00.

Nick Kaufman said the Assessor's Office uses a set value per acre. He said what they are proposing is a common area, not park. The homeowner's association will maintain the developed park. Covenants are required by the subdivision regulations. When there are road maintenance or common area issues, the developer is required to form a homeowner's association and file the Articles of Incorporation with the Secretary of State. There will be a requirement that the association maintain the common area.

Ann Mary Dussault asked, under the proposal to donate a common area and the development of a tot lot, what will be the donation to the cash-in-lieu fund?

Nick Kaufman said they propose to bring in a water service, underground irrigation, seeding, a play structure, a picnic table, and a sandbox. The total amount remaining after the development of the lot may be approximately between $800-$1,000 in the park fund.

Ann Mary Dussault asked if Mr. Kaufman was saying that the donation, which would have been made to the cash-in-lieu fund, would be used to improve the common area and develop the lot into a tot lot.

Nick Kaufman referred to a subdivision in Missoula located on Mount and 14th Street called Cottage Court, which is a development with 5,400 square foot lots and has a tot lot about 5,400 square feet in size. It is well used. He said the Commissioners allowed the developers to take the common area in West Central Village and allowed the remaining cash-in-lieu donation to go to the development of this common area. Since the developer was building the homes, he put "sweat equity" into the value of the development of the common area.

Ann Mary Dussault asked about the proposed donation of $10,000 for a larger park system in Lolo. She wondered if this was part of this proposal?

Nick Kaufman said no.

Ann Mary Dussault said the one 5,400 square foot lot would be developed into a tot lot. Would this constitute the obligation of the developer for the cash-in-lieu requirement under the statutes?

Michael Sehestedt, Deputy County Attorney, said a combination things do. The cash-in-lieu donation is the value of one-ninth of the subdivision. If the developer donates land as well as the development of the tot lot, the amount still to be made up in cash would be left. Part of the cash would be spent on the development, but the remaining amount would be deposited into the cash-in-lieu account.

Colleen Dowdall, Deputy County Attorney said it is confusing that the two requirements for common area and cash-in-lieu donations are being combined. The County is asking for money for the park fund, but would give the developers credit for common area which is not being dedicated to the County and will be left to the homeowners.

Barbara Martens, Office of Community Development, wondered about having common area dedication and then using the cash that went into the County park fund to upgrade the common area. Usually, the homeowners association assesses fees that would upgrade the common area. The cash that goes into the County park cash-in-lieu fund is used to upgrade County parks.

Barbara Evans said this would merely eliminate a step that would otherwise need to be taken. The Park Board will match a request for matching funds to upgrade a County park or common area. The homeowners association would normally have to request these funds for the development of the tot lot. She said in the end, it is no different to require the developer to use these funds for the development of the park than for the Park Board to allocate these funds for this purpose.

Nick Kaufman said at West Central Village, the park was dedicated to the County. A special improvement district was set up for the maintenance of the park. He said the same thing could be done in this instance.

Ann Mary Dussault said there are two choices: 1) require no park dedication, but accept cash-in-lieu donation of approximately $4,200.00, accept the developer's offer for a $10,000 match; the Board of County Commissioners to take the cash-in-lieu from this subdivision and the first Rossignol Orchard

Tracts for a total of almost $8,000 and use this as a match to the developer's match. The community could match the remaining $2,000 in sweat equity. 2) donate a 7,800 square foot lot for a developed tot lot. If there is remaining cash from the required cash-in-lieu donation after the development of the park, this will be donated to the cash-in-lieu fund.

Barbara Evans said it was her understanding that the offer of $10,000 was made if the proposed multi-family units were allowed.

Ken Allen said it was originally proposed with the multi-family, but the offer would still stand if the developer was not required to give the land for the tot lot. He would donate $10,000 in matching funds as well as the one-ninth value in the amount of approximately $4,200 in addition to the $3,700 for the first subdivision. This would equal almost $20,000. He said the reason he came up with the idea of the $10,000 was this amount totaled his donations over the last three years for the cash-in-lieu fund for the Lolo area. This money has not been spent in the Lolo area. He wanted some of these parks developed and maintained.

Ann Mary Dussault said the question of multi-family units has been clarified; single family residences, duplexes, and duplex townhouses will be allowed. There still may be a debate over what constitutes multi-family with the residents of Lolo. Multi-family, such as tri-plexes and four-plexes will not be allowed. The overall density will not exceed six units per acre. The interpretation of the Comp Plan is that this area is designated not to exceed six units per acre.

She asked Peter Templeton if it would make sense to ask the Lolo Community Council to take the $10,000 from the developer as well as the $10,000 in matching funds from the cash-in-lieu donations? The Council could hold public hearings in Lolo for the purpose of finding out how to best utilize these funds to begin the development and maintenance of a park system in Lolo.

Peter Templeton said this would be a very good idea. The lack of funds has been the link that has been missing in their attempts to coordinate and fund the maintenance and development of parks in Lolo.

Barbara Evans reminded the Board that the County Park Board has By-Laws and rules. Something like this should be taken through the Park Board so as not to violate these rules.

She asked about the requirement for grassy swales. There has been no way to maintain these.

Nick Kaufman said grassy swales were recommended by the Planning Board in Condition No. 10.

Horace Brown, County Surveyor, said the condition states grassy swales are to be used if they are feasible. He said it is feasible to build them, but it will cost more in maintenance. Unless there is something to collect the water, there will be water standing for days before it seeps into the soil.

Barbara Evans asked if this subdivision is approved, will the wording be sufficient to deal with this satisfactorily outside of this hearing?

Horace Brown said possibly; it depends upon the Health Department.

Barbara Evans asked what was done with the first subdivision?

Nick Kaufman said the grassy swales were included as a condition, but the problem is the road has curbs, gutters and sidewalks. To use grassy swales the drainage has to moved out of the curb behind the sidewalk. This doesn't work. In order to design a subdivision with enough room for a grassy swale behind the sidewalk, the subdivision must be designed with lots in excess of 130 feet deep. The proposed lots are 100 feet deep. It is not feasible to use grassy swales in this subdivision. They have proposed drainage sumps.

Ann Mary Dussault asked about Condition #2 which dealt with the park land dedication issue. She wanted language which would reflect the stated agreement by the developers.

Ron Ewart suggested the following language: "Cash shall be accepted in lieu of the dedication of park land equivalent to the fair market value of the land which would be required to be dedicated."

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve Rossignol Orchard Tracts No. 2 based on the findings of fact and subject to the following conditions:

1. Grading, drainage, erosion control, street, and sidewalk plans shall be approved by the County Surveyor.

2. Cash shall be accepted in lieu of the dedication of park land equivalent to the fair market value of the land which would be required to be dedicated.

MAY 4, 1994 (CONT.)

It is the intent of the Board of County Commissioners to accept the developer's offer of an additional $10,000 donation to the Missoula County Park Fund. It is the intent of the Board of County Commissioners to request the Missoula County Park Board to match those dollars for the purpose of development and maintenance of parks in the Lolo area. Further, it is the intent of the Board of County Commissioners to refer this question to the newly formed Lolo Community Council for recommendations on the development of a plan for the disbursement of these funds, no later than June 30, 1995.

3. The developer shall initiate an RSID to pave Farm Lane along with a 5 foot walkway from Lewis and Clark Drive to the east property line of the subdivision. If the RSID fails, the developer shall waive the right to protest a future RSID for paving and a walkway. The street and sidewalk plans shall be approved by the County Surveyor and the railroad crossing plans by the Montana Rail Link.

4. Any access of the lots to Farm Lane shall be approved by the County Surveyor.

5. An agreement between the RSID 901 Board of Directors and the developer shall be signed stating that water and sewer capacity exists to serve the subdivision and that the subdivision is allowed to connect with the District, prior to filing of the final plat.

6. Additional right-of-way shall be dedicated to the County along Farm Lane in order to create a 60-foot right-of-way, subject to approval of the County Surveyor

7. The Property Owner's Association Articles of Incorporation, By-Laws, and Covenants shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict.

9. Any duplex or one half-plex townhouse shall have a minimum 4,050 square feet of lot area per family, and shall be approved by the Zoning Officer. The over-all density for this subdivision, shall not exceed 6 residential dwelling units per acre.

10. Soil infiltration (commonly called grassy swales) shall be placed in the right-of-way on the internal subdivision roads to collect stormwater runoff, if feasible. The plans for grassy swales shall be approved by the City/County Health Department and the County Surveyor.

11. Fire hydrant locations shall be approved by the Missoula Rural Fire Chief. The cul-de-sac turn-around radius' shall be approved by the Missoula Rural Fire Marshal.

12. The developer shall include the following addition to the covenants:

13. Gardens and ornamental shrubs attract wildlife thereby creating the potential for adverse human/wildlife encounters. It is recommended that homeowners obtain a copy "Living with Wildlife" either from the Office of Community Development or the Missoula County Rural Planning Office.

The Commissioners also approved the request for the variance to Article 3-2(3) of the Missoula County Subdivision Regulations which require that the right-of-way width for local streets is 60 feet, for a right-of-way width for Lakeside Drive of 54 feet.

Barbara Evans asked Ann Mary Dussault to consider changing Condition No. 9 which required the approval of the Zoning Officer. She wondered what the Board would be asking the Zoning Officer to do when the Board has set the square footage of the lot and the types of housing?

Ron Ewart said the original intent of this was to make sure that the parking would work if there were four-plexes. However, if there are only duplexes and townhouses, then perhaps this isn't so important.

The motion carried on a vote of 2-0.

The words "and shall be approved by the Zoning Officer" was deleted from Condition No. 9 before the motion was passed.

Barbara Evans said she still had concerns relative to the requirement for grassy swales. However, if the Surveyor felt that he could deal with this, then it could remain as a condition.

MAY 4, 1994 (CONT.)

HEARING: RECONSIDERATION OF PRELIMINARY PLAT APPROVAL OF SALMON LAKE SHORE SITES

Colleen Dowdall, Deputy County Attorney, explained that at the Public Meeting on February 2, 1994, the preliminary plat of Salmon Lake Shore Sites was approved. Since then, the developers approached the County requesting reconsideration of the conditions placed upon the preliminary plat approval which restricted the number of docks and trails to the lake. The site has been viewed by Ron Ewart from the Office of Community Development and Zoe Mohesky from Rural Planning for the purpose of looking at the impact of having shared trails to the lake. They have come up with a set of trail guidelines which do not recommend shared accesses, but set guidelines which would have less impact than the shared accesses by utilizing the topography of each lot. In addition, the developer proposed dock guidelines. This would have the affect of amending the Commissioner's prior preliminary plat approval to allow the developers to have these guidelines to replace the previously approved guidelines.

She said this is a public hearing. Testimony can be taken from proponents and opponents.

Barbara Evans said the developers also asked the Commissioners to reconsider their decision to ban solid fuel burning devices.

The hearing was opened to public comment.

Dick Ainsworth, Placid Lake Properties, said they are in agreement with the dock and trail guidelines. He said there is potential confusion with a couple of the trail guidelines. He said they agree with the intent and have no problem with the guidelines.

Ron Ewart, Office of Community Development, said the topography along Salmon Lake is varied. In some areas, it would be easy to construct a trail down to the shore; other areas would be more difficult. The staff took a lot of time to write the guidelines. He said if the landowner is responsible and follows the guidelines, and an architectural review committee is set up to review the plans, then the guidelines will work to preserve the environment.

Zoe Mohesky said the guidelines came from talking with a lot of Forest Service and Parks Department individuals who have worked with trails. These guidelines were made up from knowledgeable individuals. She said the open space and visuals from the lake and the road were taken into account when developing the guidelines.

She explained that the dock standards from the developers were developed with an eye toward keeping docks to a minimum and using construction materials that were friendly to the environment. She said the developers have gone much further than what the Forest Service requires for their leased land.

Barbara Evans complemented Zoe Mohesky on the work she performed on the guidelines.

Eva Richards, resident, asked for an explanation of the road right-of-way onto the property, as well as an explanation on the sewer and water.

Barbara Willing, Seeley Lake resident, said she didn't approve of the subdivision because she appreciated the property as it currently was. She wondered why the conditions did not restrict the use of boats. There are several nesting waterfowl in this area. Loons may be endangered.

Barbara Evans explained that the County has no legal authority on the water. She said they are just as concerned about the loons as anyone. The developers will conduct a public education effort to try to convince the residents not to use water or jet skis in the area where the loons are located. The people in this area are also concerned about the loons; the peer pressure will be great on anyone who does anything to disturb the nesting sites.

Barbara Willing said the residents or their guests might not know these things. It may take quite a bit of peer pressure.

Barbara Evans said the developer must give each resident a pamphlet entitled, "Living With Wildlife" which was designed and written by the Rural Planning staff.

Dick Ainsworth said one of things Placid Lake Properties does when they sell property on Placid Lake is to give the residents a lot owners manual which has assorted information about the property such as the covenants, the plat, copies of the Health Department approval, etc. Also, the pamphlet, "Living With Wildlife" is inserted in the back of the book as well as a discussion with the buyers about the wildlife on the lake. There is a signed agreement between the County and the developers which addresses a lot of these concerns. He said the agreement was initiated from concerns by the Commissioners. The covenants may not be totally enforceable; they are only as good as the people in the development. If the people don't care and

don't want to enforce them, the County has no way to enforce the covenants. It was recommended that an agreement be developed that would include more of the critical issues dealing with this property such as setbacks, protection of the wildlife, protection of the shoreline, cutting of trees, vegetation, etc. The County will be able to enforce this agreement. At some point in time, the developers will have sold all of the lots and will not have interest in the subdivision. At this time, the agreement will be between the homeowners and the County. It goes beyond and is in addition to the covenants.

He explained that the property lies on both sides of the highway and is about 86 acres in size. Fifteen acres lie between the highway and the lake which has been subdivided into nine lots. The 68 acres on the east side of the highway have been set aside as common area and will belong to the homeowner's association. The protection of the common area is contained within the site agreement. It is restricted against any sort of development at any point in time. The access to the lots will be provided by a total of three approaches to the highway. Lot 9 will use an existing approach that goes into an existing scenic turnout; the other two approaches have been approved in concept by the Highway Department. The approach will have a private driveway that will run along the highway and will serve the lots. There will be a total of three approaches with one existing approach; they will add two more. The approaches are approximately a quarter of a mile apart. These will be private driveways and will be dust oiled by the homeowners association.

He said they have proposed individual sewers and wells which have been approved by the State Health Department. This submittal has been turned in and has been approved.

Ann Mary Dussault delineated a series of questions received from Paul Torac, Seeley Lake Water District. The first question was, "where will the source of water for these homes come from?"

Dick Ainsworth said individual wells.

Ann Mary Dussault continued with the questions, "Presently, if there is only one source of water for these nine hookups, they are one hookup below current State requirements to become public water systems. There are rumors that this will be lowered in the near future to seven hookups. If this occurs, will the development be able to meet the requirements and costs associated with becoming a public water supply system?" "Will the water source meet current health standards?" "Is each home going to have a septic tank? If so, will it comply with the proposed non-degradation rules that are expected to be adopted on May 20, 1994?" "If the development is to use an alternative method for wastewater, how will this be affected by proposed non-degradation rules?" "Has the State already approved entrances, and if so, do they comply with the requirement for 900 feet of visibility from both directions?" "How will the development ensure that the eagle population is not adversely impacted by these nine home sites?" "How will the development ensure that the loons and moose are not adversely affected by these nine home sites?" "Will motorized craft be restricted from the south end of the lake where summer camps for children are located? These camps frequently use canoes for campers. Wakes from motorized craft could endanger these campers."

Dick Ainsworth said they did not propose a multi-family or a community water system. They proposed individual wells which the State has approved. Each home will have a septic tank. The septic tanks have been approved under the current rules. He said there are no alternative methods for wastewater proposed. He said the entrances to the subdivision complies with the Highway Department's regulations. He said he didn't know how to answer the question relative to the eagle population. They do not anticipate this being a problem. There are no nesting sites on this property. There is a loon nesting site on the lake which is about a mile north of the subdivision on the other side. There is always potential for a boater to disturb the site. However, they propose to overcome this problem with education. He said they do not have any control over the motorized craft on the lake.

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

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the following amendments to the preliminary plat for Salmon Lake Shore Sites relative to the guidelines for lake access/trails and proposed dock restrictions to replace the language in the original preliminary plat approval concerning the limitations on docks and the number of trails:

GUIDELINES FOR LAKE ACCESS TRAILS

Lake Access Trail Defined. A Lake Access Trail is a single trail to serve as an established route from the main structure (residence) to the lake shore.

1) Only one (1) lake access trail is permitted per lot.

2) The placement of lake access trails must take advantage of the least sloping areas on a given lot. Trails shall not be located on the steepest portions of a given lot.

MAY 4, 1994 (CONT.)

3) Lake access trails may not exceed a maximum grade of twenty percent (20%). A maximum grade of fifteen percent (15%) is recommended with small deviations (approximately 10 lineal feet) up to twenty percent (20%).

4) The natural topography shall be followed as much as possible for lake access trails. Excavation shall be kept to a minimum. Retaining walls are discouraged. Excavated material of any kind shall not be deposited onto or allowed to migrate into Salmon Lake.

5) Switchbacks on lake access trails shall be kept to a minimum. Longer cross slope trail segments should be used to reduce the visual impact of trails visible from the lake. When switchbacks are necessary, the upper leg should be in-sloped and a small water diversion shall be placed to drain the water off the trail at the top of the switchback.

6) Drainage must be addressed in the trail design to limit erosion along all lake access trails. Rolling the trail grade or developing dips in the trail are the methods encouraged because this provides for near-natural drainage.

7) Lake access trails shall not exceed 30 inches in width.

8) Lake access stairways shall only be used in a few cases and meet the standards herein to minimize their visibility from the lake. Stairways may only be constructed in lengths up to thirty (30) feet along lake access trails. All stairways must be of earth tone colors to blend with the natural landscape.

9) Wooden steps or flagstones are encouraged as an alternative to stairways and switchbacks but should not be used continuously along the lake access trail. These improvements must be placed to fit with the natural topography. Drainage measures must also be incorporated into their design, such as, insloped steps or water diversions.

DOCK RESTRICTIONS

- Each lot shall be limited to one dock.
- Total surface area of each individual dock shall not exceed 400 square feet.
- No deck on a dock shall be more than eight (8) feet wide.
- No dock shall be more than forty (40) feet long.
- All docks shall be of the "removable" type (i.e.: floating, on-wheels, or "hinged/tilting type), and no permanent pile driven or rock crib docks shall be permitted.
- Styrofoam logs, steel barrels that are susceptible to rusting out and leaking into lake, and other flotation materials prone to degradation of the water quality of Salmon Lake shall be prohibited.
- When docks are removed from the lake for the winter, they shall be stored along the shoreline of the lake (above the high water line), and under no circumstances shall they be towed or pulled across the "hillside" portion of the lots.
- All docks shall be open, or partially open underneath to allow for free flow of water, unless the total length of the dock is less than twenty (20) feet. Docks longer than twenty (20) feet shall have two or more openings in the water under the dock, to provide for free water flow. The total length of these openings must equal at least one half of the total dock length.
- "T" or "L" shaped docks shall be encouraged over longer, straight docks, when more than one water craft is to be moored at a dock.
- Wing-backs on "T" docks shall not be permitted.

The motion to approve the dock and trail guidelines carried on a vote of 2-0.

Barbara Evans said the restriction on the wood burning devices should be removed because it puts an additional burden on the developers that the Board does not put on anyone else.

Ann Mary Dussault asked if the Board voted to completely eliminate wood burning devices, or just that the development must comply with the current Health Department regulations? She stated that she was willing to clarify the restriction to state that the development must comply with the current Health Department regulations.

Ann Mary Dussault moved and Barbara Evans seconded the motion to amend the language relative to wood stoves to read, "Any solid fuel burning devices must comply with the current Health Department regulations in place within the Air Stagnation Zone." The motion carried on a vote of 2-0.

Ann Mary Dussault explained that there have been significant additional restrictions placed on this subdivision, including reservation 68 acres of which are non-buildable, the private covenants, etc. She said when this matter was first heard by the Commissioners, she and Fern Hart had concerns about the shoreline. During the hearing, she said they tried to address these concerns by restricting access. However, after the hearing, the staff visited the site and concluded that the restrictions could be more damaging than what was just adopted. The staff's recommendation was to adopt the current guidelines because in the end, they would be better for the land and the shoreline.

PROCLAMATION: BIKE/WALK WEEK

The Board of County Commissioners signed the following proclamation:

Whereas, the County of Missoula recognizes bicycling, walking, ride sharing, and mass transit as integral parts of our community's transportation system; and

Whereas, using the above-mentioned transportation modes can improve air quality; enhance personal fitness; reduce traffic; increase mobility; and connect us more positively to our physical environment,

Now, therefore, we, the Board of County Commissioners of the County of Missoula , do hereby proclaim May 7th through May 14th, 1994, as ***Missoula Bike Walk Week*** and encourage all citizens to bicycle, walk, ride the Mountain Line, or carpool, for the good of our community and for their own health and well-being.

Ann Mary Dussault moved and Barbara Evans seconded the motion to adopt the Proclamation proclaiming May 7th through 14th, 1994 as Missoula Bike Walk Week. The motion carried on a vote of 2-0.

Sharyn Solum, Administrative Assistant, explained that Missoula County is taking a very proactive role in Bike Walk Week by purchasing bikes for carpooling and motorpooling for County employees. The City and County employees are doing a challenge to see who can use alternative transportation the most on Try Another Way Day, on May 11th. The County has adopted a carpool map database for employees who wish to carpool and obtain information. Ann Mary Dussault is participating in the Mountain Goat Car/Bike Challenge on Friday, May 13th. Commissioner Fern Hart and Sheriff Doug Chase made television commercials.

Ann Mary Dussault commented that she was doing the politically incorrect thing--by driving her car in a race against a bicycle

BID AWARD: STATE HIGHWAY CONTRACT SPRAYING - WEED DEPARTMENT

The Missoula County Weed Control Office reviewed bids to treat 410 acres of State highway roadside and 90 acres of County roadside vegetation for noxious weeds, with the following results:

Nitro Green of Helena	Item 1 =	$ 30.54
	Item 2 =	$ 22.34
Maximum Expenditure		$15,270.00
Pioneer Weed Control	Item 1 =	$ 35.90
	Item 2 =	$ 35.90
Maximum Expenditure		$17,950.00
Helena Weed Control	Item 1 =	$ 30.68
	Item 2 =	$ 21.67
Maximum Expenditure		$15,340.00

The staff recommended that the bid be awarded to Nitro Green of Helena at a maximum expenditure of $15,270.00 with the requirement that certificate of insurance be filed with the Missoula County Risk Manager.

The Montana Department of Transportation will reimburse Missoula County Weed Control for the cost of treating 410 acres ($12,521.40), plus 10% for administration ($1,252.14). Missoula County Weed Control will incur a cost of $1,496.46.

Ann Mary Dussault moved and Barbara Evans seconded the motion to award the bid to treat 410 acres of State highway roadside and 90 acres of County roadside vegetation for noxious weeds to Nitro Green of Helena at a maximum expenditure of $15,270.00 as the lowest and best bidder, contingent up the requirement

that the certificate of insurance be filed with the Missoula County Risk Manager. The motion carried on a vote of 2-0.

CONSIDERATION OF: KONA RAPIDS - SUMMARY PLAT

Ann Mary Dussault explained that this consideration had been postponed until the Public Meeting on June 1, 1994.

Ron Ewart, Planner at the Office of Community Development, explained that the applicants have requested that the summary plat be postponed until June 1st because the husband is out of town and his wife wanted him to be present at the hearing. He stated that he had a letter to this effect.

HEARING: PROPOSED AMENDMENTS TO CURRENT SUBDIVISION REGULATIONS - RIPARIAN STANDARDS

Colleen Dowdall, Deputy County Attorney, explained that the presentation will first establish why riparian standards are needed and how these particular standards were decided upon.

Pat O'Herren, Rural Planning, presented a slide show which established the need for riparian standards. The riparian regulation proposal comes out of a cumulative effects carrying capacity project that was started last June. The project was designed to identify conservation resources throughout Missoula County that are currently threatened by human growth and growth impacts. It also will identify areas where the County continues to grow, and how this growth can be accommodated. A number of different entities were contacted to see what was happening in Missoula County in terms of actual population growth. The number derived from the Bureau of Census showed a 4.7% growth rate between 1990 and 1992 in Missoula County. It was projected that by the year 2012, there will be approximately 130,000 people in Missoula County. If a four-county radius was taken, it was projected that there would be 350,000 people by the year 2012. Substantial growth is definitely occurring. The 4.7% is relatively low. Recent studies in the Flathead indicate the Bureau of Census total population figures are about 18% below the total population at any given time. This doesn't include second homes, cabins, etc. The infrastructure stays even though those folks may only stay for a short period of time. The question became, where those folks going and where do they want to locate and what are the impacts of their location in Western Montana.

He showed slides of lower Grant Creek. It was unanimously concluded by State, Federal and private agencies that riparian areas are the most impacted. This is not just an urban problem. He quoted from a masters thesis submitted by a biologist and journalist by the name of S. A. Schneider who said, "Leaving undeveloped land that borders water courses and riparian areas also reduces negative impacts to wildlife. Riparian areas support more plant and animal species compared to non-riparian areas. Habitats that border streams, lakes and rivers are also the most sensitive to changes like human disturbance, and therefore, are easily damaged by careless, unplanned development. An Ornithology professor at the University noted that "clearing brush from streamsides, changing natural grasslands to lawns, and cutting down trees destroys habitat for species that are particular to each of those elements. For instance, a grasshopper swallow lives strictly in grasslands, nesting on the ground. The nesting offered by lawns isn't enough cover to for the sparrows to nest successfully and predators such as house cats are deadly."

There are three very important resources associated with riparian areas: 1) water quality; 2) wildlife; and 3) vegetation. Rich Clough, Supervisor of Region 2, Fish Wildlife and Parks noted that riparian resources provide protection from river channel changes, protection of riparian habitat and associated fish and wildlife and the protection of the public's enjoyment of these limited resources. Paul Hanson, riparian and wetland ecologist from the University of Montana, noted that riparian and wetland areas are important for a variety of issues such as water quality, water quantity, clean water, flood control, wildlife habitat, bio-diversity, fisheries, timber production, forage and recreational uses. Chuck Harris of the Swan Lake Ranger District stated that, "We believe riparian areas should be managed carefully because they are critical habitat for many wildlife species including cavity users, neo-tropical birds, amphibians, fish and mammals. Because these areas are important for native communities, it is important to retain their continuity and bio-diversity. Arnie Rosequist, hydrologist for the Lolo National Forest, commented that "Riparian values run the range of physical, biological and social. In the generally arid west, water courses in the riparian zones associated with them take on an importance that may not be recognized in areas of more abundant moisture. Riparian zones develop deeper, more fertile soils, vegetation has a better opportunity to grow, and wildlife in turn, find a more productive habitat. The soil and vegetation complex shades and protect the water courses insuring high water quality. It also dissipates flood energy and absorbs excess water that is released back to the stream in times of lower flows. A scientist from the Flathead commented that they believed the riparian wetland areas are some of the most physically and biologically sensitive sites in the landscapes. They should be managed carefully because they are critical habitat for many wildlife and plant species as well as the key portion of the interface of the surface and subsurface hydrologic system.

In terms of where riparian areas are located in Missoula County, he showed a computerized map of the Missoula area. This map showed existing riparian resources in the urban area. He explained that Colleen Dowdall will discuss the issues relative to functional wetlands, functional riparian areas and jurisdictional

riparian areas. Within a jurisdictional riparian area, there would still be riparian resources, but they might not be functioning as well as they should in terms of water quality, habitat, etc.

Since the agencies unanimously agreed that the riparian areas were threatened, it is important to document what they said. He said the scientific and technological communities were consulted to look at Missoula County and jurisdictional riparian areas. The Lolo area had the most affected riparian area. 17% of the area did not have a subdivision within a half a mile. Virtually none (less than 1%) of the riparian areas are without access by road. The conclusion of the biologists, botanists, soil scientists was accurate in that there is not a whole lot of riparian area left that is not already being impacted by human development.

He referred to what has occurred in the Swan Valley based on the information of the map. There are actually creeks in some of these areas that no longer function fully as riparian areas due to the impact from humans. Potential threats to riparian areas include timber harvest, road building, mining, residential and agricultural development, hydro power, construction and operation, harvest of fish by anglers and non-native fish species. However, the Department of Fish and Wildlife, Fisheries out of Creston, Montana, commented that habitat destruction was associated with buildings, roads, livestock, etc., in the riparian zone. Assuming that these direct impacts are minimized, there is a less measurable, but equally disturbing concern that involves increased poaching, harassment and ignorant or wanton destruction that is a natural and probably unavoidable outgrowth of increased human population. Impacts are not only occurring with bull trout or rainbow trout; it is amazing the similarities of impact between bull trout and bears. The habitat destruction is associated with construction activities as well as the unavoidable outgrowth of increased human population. He referred again to Sarah Schnieder's masters thesis, which commented that many reptiles and amphibians are highly sensitive to roads. Amphibians and reptiles use these roads to warm themselves and consequently end up as "road kill". As for creatures such as snakes, people go out of their way to kill them. Finally, the Fish and Wildlife commented that both riparian areas and stream courses are important to bears and other wildlife, not just for feeding, but for traveling as well. Animals that are more sensitive to human presence may cease to use the area. They recommended that new residents outside the grizzly bear linkage zone boundaries, but within the recovery zone for the grizzly, be placed no closer than 1,640 feet or 500 meters from the larger stream courses or major riparian areas.

He stated the staff proposed jurisdictional riparian standards that would be interim at best and would not solve all the problems of the impacts identified. The standards would not protect all of the resources that all of the State and Federal agencies have noted are being impacted. He said the jurisdictional recommendations run from 25 feet from a stream or water body to approximately 1.8 miles. There is great debate as to whether or not jurisdictional standards apply, where they should apply and how much they should be applied. In February of this year, the Salish-Kootenai Tribe recommended half a mile, specifically for large wide-ranging carnivores. He said this brings the matter down to why go ahead with jurisdictional versus functional standards. He referred to a Missoulian article dated May 4, 1994 which dealt with the growth of the state of Montana from January through March, 1993 compared with the same time period in 1994. Residential construction contracts were up 30%; non-residential up 300%; non-building contracts down 37%--this will be an interesting fact to deal with when dealing with social and economic issues and where planners would like to see people go when the governments are spending less on infrastructure than on building residential and non-residential structures.

Colleen Dowdall explained that the staff began looking at riparian areas in terms of protection. Initially, they formulated a jurisdictional definition for a riparian area and presented it to the Board of County Commissioners. The Board asked the staff to talk to the different agencies to see if the proposed jurisdictional area was something that was supportable within the scientific community. The conclusion of these discussions was that a jurisdictional definition was probably inadequate and what the County needed to do was to formulate a functional definition. A majority of the agencies suggested that the County use the Streamside Management Zone Regulations, which are used for the regulation of timber management and as a basis for interim regulations. As a result, the County could begin to protect the resource and have more time to come up with a definition of a functional riparian area. A functional riparian area is a riparian area that has vegetation in the habitat and serves the function for water quality, vegetation and protection of habitat. The staff developed an initial draft of the regulations and met with staff within the City and the County which has been referred to as the Riparian Area Support staff. This support group gave good suggestions on revising these regulations. This draft document was sent out to approximately 200 individuals and groups within the Missoula area. A work session was scheduled with this group. They did two work sessions with members of the community who gave excellent recommendations to make these regulations understandable. The revisions are included in the final draft for the Commissioner's consideration. She emphasized that the staff told the agencies that they need a functional definition adopted within the next 60-90 days. The proposal before the Commissioners are interim regulations which triggers inquiries when a subdivision comes through that may be in a riparian area.

She summarized the interim regulations as follows:

Regarding the section on Purpose, she said the regulations prohibit development within a riparian area. A subdivision which is partially within a riparian area would cluster development or the improvements outside the riparian area. Also, the regulations limit or prohibit building roads or trails within an area of riparian resource. A variance procedure was provided which goes a little further than the normal variance procedure in the subdivision regulations by giving the Commissioners an additional standard to look at.

At this time, Fern Hart returned to the meeting.

Colleen Dowdall said the other purpose of this hearing was to address the issue of the edited version of the subdivision regulations.

Barb Martens, Office of Community Development, explained that the edited version of the subdivision regulations was a result of what was adopted in January, 1994 by the Board of County Commissioners which was called Phase II of the subdivision revisions. Phase II took the current regulations and the Department of Commerce State Model subdivision regulations and created a hybrid between the two documents. The Board adopted the regulations January 19, 1994. The draft was edited by a professional editor to make the copy more reader friendly. The staff recommended that the changes be adopted with two changes as follows:

On page 48, under the section, Standard Minor Plat Review Procedures, she said sections 3B through H were not included, but would stay in the regulations. This would set out a procedure for a standard subdivision. These were not intended to be deleted.

On page 64, under the section, Error Correction and Adjustment Procedures of Recorded Plats, 7-2 (3) Minor Errors where it talked about the property owners petitioning for the amendment or correction of a filed subdivision plat shall pay all related costs incurred including filing fees according to the final plat filing fee schedule, she said the editor inserted, "costs incurred by the governing body." She said she didn't know whether this should say, "Missoula County" because it is intended to be the costs incurred for staff time from the Surveyor's Office, OCD, the Clerk & Recorder's Office, etc. She said in the sections 7-2(3), 7-3(3)(7), 7-4(3) in the edited version, the editor inserted "governing body". She recommended that the Board consider inserting "Missoula County."

She said the remainder of the edited changes were acceptable.

Fern Hart said when it comes time to adopt the changes, the Board will need to have the exact additions.

Barb Martens recommended inserting the standard minor plat procedure back into the document as well as consider whether to insert "Missoula County" to replace "governing body".

Fern Hart opened the hearing to comments relative to the riparian standards.

Jerry Sorensen, manager for land use planning for Plum Creek Timber Company, commented that the issue of riparian been close to him for a long time. He stated he was on the first team of people to implement lakeshore regulations on Flathead Lake and Swan Lake. Subsequent to this, he was one of the first people to work for greater setbacks than were allowed in the subdivision regulations through land use planning and zoning in Lake County. This included a 50 foot setback from all rivers, streams and lakes and implementing zoning districts on Flathead Lake. Also, at the last legislative session, he was one of main people working with the Environmental Quality Counsel to implement a 50 foot setback for all state waters for construction. People who build homes should comply with the same standards as people who farm trees. This bill flew through the House on a favorable vote of 76-23. It was killed in the Senate Natural Resource Committee. Between the hearings before the House and Senate, the bill raised the ire of a number of property rights groups in the State of Montana, particularly from Flathead County. This was caused by a simple 50 foot setback. Based upon this experience, he cautioned the Commissioners to go slowly when defining riparian areas that may effect setbacks as to where people may build on the water. The reason riparian areas are impacted is due to the fact that people are drawn to these areas for recreational homesites.

He said Pat O'Herren visited with him and his supervisor, Bill Brown. During this meeting, Pat reiterated a request made previously for Plum Creek's opinion on the definition of a riparian area. This was referred to the company's biologist which took much time. He said Plum Creek conveyed their wish that the effort focus on the Streamside Management Zone Law. The SMZ Law is the most strict law regarding timber harvest near streams in Washington, Idaho and Montana.

He commented relative to differences between the interim regulations and the SMZ Law. He commented on section 3-13(2)(b)(1) where it states that where an established road exists between 50 and 100 feet from the ordinary high water mark, the area of riparian resource boundary is located at the edge of the road **farthest** from the stream. The wording in the State law is "nearest the stream." Plum Creek was concerned that this

would put the SMZ farthest from the stream on an existing road. If a developer submitted a plat with a road located in this area, he could be turned away because the road is within an existing SMZ. The regulation could be interpreted this way. He suggested this be clarified.

He commented on (2) which referred to being able to develop on a bench area within 100 feet of a stream, but the developer was required to take the measurement from the edge of the bench farthest from the ordinary high water mark. This could be interpreted to mean that the farthest edge of the bench would preclude any development. This is contrary to the SMZ Law. If the intent is to allow some development on the bench, the language would preclude this.

Section 3A discussed how riparian resources can be protected. He suggested that "a review by the Planning Board" be inserted. All subdivisions go to the Planning Board anyway. This gives the developer an opportunity to address the issue and get some input.

He said due to the difficulty in defining a riparian area and because the regulations are interim anyway, he asked for clarification on how this process would be undertaken to define a functional definition. He requested that Plum Creek be notified of this process and be offered an opportunity to participate in this process.

Nick Kaufman, land use planner with WGM Group, commented on the recommendation of the Tribe for a half mile for the riparian zone.

He referred to Section (3) Subdivision Prohibition, under subsection (B) where it states that "No improvements of any kind shall be approved..." He suggested that the language should read, "Except as provided in Sections (4) and (5) below, no improvement of any..."

On the last page, there is no definition for trails. Also, the definition of riparian resource area includes the word "stream". The definition of stream is something that flows water intermittently. He said they have some concerns about the interpretation of the word "intermittently". He requested that this be clarified; if a grassy draw intermittently has some runoff, is it an area of riparian resource? If this is the case, any slight depression that carries water at any time is an intermittent stream and may come under these regulations.

He said these regulations are part of the subdivision regulations which means that any subdivision to come in for review must be reviewed under the riparian regulations. He wondered if it would be better to look at the regulations in the next 60-90 days and adopt one set of regulations?

Dick Ainsworth, Professional Consultants, Inc., wondered if it was advisable to adopt these regulations when it is the Board's intention to adopt another set of regulations in 60-90 days. He said there is a need to protect riparian resources. However, he stated he felt like the hundreds of people that have protested subdivisions over the years that said they weren't opposed to development, just this particular development. He stated he was not opposed to regulations, certainly not regulations to protect riparian resources, but was opposed to this regulation in its present form, at this particular time. He said the problem is not with subdivisions--subdivisions are reviewed extensively. The bigger problem are areas that do not go through subdivision review. A regulation should be adopted that applies to all riparian areas, not just areas in new subdivisions.

He said most riparian areas will be approximately 100 feet wide, not 50 feet wide. There is some confusion as to how far this riparian area would extend onto a bench; at a minimum, it extends 100 feet. In some cases, it should, but in a lot of cases, it shouldn't. He stated he would rather see the regulations adopted when a functional definition is adopted in 60-90 days.

He expressed concern that the regulations did not allow for any sort of improvements within these areas. It also was troubling that the regulations lumped together trails and roads. If someone wanted to build a trial from a cabin to a lake or stream, based on these regulations, it can't be done because a trail is in the same category as a road. Under certain circumstances, a trail should be allowed. Trails and roads do not have the same impact.

Another problem area, Section 4b (1) states that "roads and trails should be located on the fringes of areas of riparian resources rather than through them. In the event it is necessary to route a road or a trail through the area, then open areas should be utilized in order to minimize the impact on vegetated areas." This basically says to stay out of the trees, keep in the clearings. In Section 4b (3), it states that "roads and trails should not intrude on areas of riparian resource and open exposures of water and should, if possible, avoid scenic intrusion." This basically says to stay out of the open areas, keep in the trees. One regulation states one thing while the next regulation says the opposite which creates some potential confusion.

Under Section #3 (B), it talks about where a portion of the development area would be an area of riparian resource which would normally be the case. In this case, development should be clustered outside of the riparian area. He wondered if clustering was the proper term. The intent of this section is to keep the

development/improvements out of the area of riparian resource, which can be done without clustering. With the other language in the document which already requires this, this appeared to be superfluous language. Sometimes clustering works, sometimes it doesn't; this item seems to state that it has to be done. This should be reviewed on a case-by-case basis.

He expressed concern relative to the "open endedness" of the language which says, "shall provide for protection of the resource specific to the area as recommended by the staff and approved by the governing body." It doesn't really tell a person what to do and is open to the whim of the staff and the governing body. Developers can live with most rules, but they need to know what the rules are so they can plan for them.

He said he did not have time to review the document as much as he would have liked to. He urged that the Commissioners allow for more time to work on the regulations. He said they are not to a point where they could be adopted; they need some work. He urged the Commissioners to wait the 60-90 days until there is a definition of riparian area. Also, the regulations already apply to subdivisions which are reviewed by a wide array of agencies. He hasn't done a subdivision in a riparian area where these same sort of concerns were not addressed. Based on this, he didn't feel there was an urgency to do this right now. He urged the Board to take their time and get it right the first time.

There being no further comment relative to the riparian regulations, the hearing was closed to public comment.

The hearing was opened to comment relative to the subdivision regulations which were a combination of the County's old subdivision regulations and the new model regulations.

Colleen Dowdall explained that the proposed changes to the subdivision regulations have been previously adopted by the Commissioners. This document represents an edited version.

There being no comment, the hearing was closed to public comment.

Ann Mary Dussault asked the staff to explain which of the comments had been incorporated into the subdivision regulations.

Colleen Dowdall explained that the riparian standards were changed with regard to roads and the bench and whether it was included within the area of riparian resource. The Streamside Management Zone regulations require that it be calculated from the high water mark to the road; the road would be outside the riparian area. She said the current regulations go from the farthest side of the road. This was done so when a subdivision came in, paving issues could be addressed. The Health Department is in the process of reviewing new paving regulations. The staff wanted to be sure they had some input because it may be possible that some roads in a riparian shouldn't be paved. They wanted to have this review within the subdivision regulations.

Regarding the bench issue, Pat O'Herren explained that the definition of riparian area is such that the staff felt they needed to be as flexible as possible and wanted to include as much of the resource as possible. Consequently, if there was a bench that extended beyond 50 feet or 100 feet, it could be included within the regulations so that the resources on that bench could be evaluated. He said they need a variance procedure of some sort because there may be some areas where benches are a mile or two in length. A variance procedure would give the Commissioners the ability to limit the definition of a bench to 100 feet or 50 feet.

He said it took the Legislature about 12 years to come up with the Streamside Management Zone regulations and had the benefit of input from all the experts. These are the best regulations that currently exist given good scientific documentation. He said they hope that in the next 60 to 90 days to get a functional definition of riparian areas which are being devised in consultation with about 50 different private or public agencies through the Wetlands Program at the University of Montana. It is funded through both public and private sector work. He said it is referred to as the "bible for functional definitions". The definition of a riparian area will done within 60-90 days. He said they would like to have regulations in place just in case it takes longer.

Colleen Dowdall referred to the other suggestions made for the Planning Board to be a recommending body. She said it is implicit in the regulations that the language used be consistent with the subdivision regulations. This language was used throughout the regulations. She referred to specific places in the regulations which did not call for Planning Board review, but called for agency review. The Planning Board is not agency review. There are places within the subdivision regulations where, for instance, a road must have a recommendation of approval from the Surveyor's Office and the approval of the governing body. The Planning Board is not inserted in the regulations because it is implicit in the regulation that requires that the Planning Board give their recommendation on certain subdivisions.

She said the ordinary high water mark definition was taken verbatim from the Streamside Management Zone Regulations. She addressed Nick Kaufman's recommendation to add the language "Except as

provided in Sections 4 and 5" She recommended that the reference to the definition of trails be removed until there is a definition.

Ann Mary Dussault said the references to trails in Section 4 should be deleted leaving the reference to road construction.

Colleen Dowdall said in terms of the recommendations from Dick Ainsworth, the recommendation concerning the bench was adopted. A limit of 100 feet was inserted.

Barbara Evans asked Colleen Dowdall to address the variance issue. The area may exceed the figures in the regulations.

Colleen Dowdall said there were concerns expressed in previous meetings relative to setting up a procedure where a variance would be necessary. She said they were trying to establish a triggering mechanism for the staff to look at an area within a jurisdictional definition. She said the staff wanted the regulations to be opened ended in order to have the ability to protect the resource, while allowing the use of the resource to enhance the development. The balance is to remain fairly open; this benefits the developers as much as it worries them.

Ann Mary Dussault asked that the question raised relative to intermittent streams be addressed.

Pat O'Herren said the resolution was prepared to be fairly conservative in order to get the opportunity to address all these areas. On one hand, there are intermittent areas that do not have to be protected and could obtain a variance. On the other hand, there are areas which are intermittent in nature which are extremely valuable habitat that should be protected. The intent was to be very conservative as to what is addressed.

Jerry Sorensen said he didn't have a problem with leaving the definition somewhat loose and flexible. However, the language states, "no improvements of any kind shall be approved which are within the area of riparian resource". He suggested that the regulation be re-worded to be more flexible. Also, regarding the differences with the SMZ law, he said he was concerned that there may be some legal challenges. The nearest point of the bench and the furthest part of the bench are two very different things. The way this is written it implies that any bench within 100 feet cannot be developed. State law is within 50 feet. He said if it is different than State law, the County should have strong rationale for these differences.

Barbara Evans stated that the Board received a call from the Confederated Salish and Kootenai Tribe asking for a delay on the decision because they did not have an opportunity to respond. She stated that she shared the concerns of the staff that valuable resources would be lost if the decision was postponed. The staff has made every effort to incorporate the concerns that have been expressed at the planning meetings. She said she felt the regulations should be adopted to prevent the loss of any more resources.

Fern Hart said the staff has tried very hard to complete the regulations and have gotten adequate input from the public and various agencies. Riparian areas are one of the County's highest priorities. It should not be delayed until the end of this summer.

Ann Mary Dussault moved and Barbara Evans seconded the motion to adopt the amendments to the subdivision regulations defined as Areas of Riparian Resource with the following changes:

1. In Section 3A, add, "except as provided in Sections 4 and 5 below, no subdivision shall be approved which is determined to be wholly within the area of riparian resources."

2. In Section 3B, strike, "clusters" and insert, "place".

3. In Section 4, delete any subsequent reference to "trail".

Under Definitions of Ordinary High Water Mark, add, "It may be indicated by such characteristics as terracing, changes in soil characteristics, destruction of vegetation, **absence or change of vegetation,** ..."

RIPARIAN REGULATIONS: DRAFT 4, April 26, 1994

3-13 AREAS OF RIPARIAN RESOURCE

(1) Purpose: The intent of this section is to ensure that no subdivision shall be approved which is determined by the governing body to be unsuitable by reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities or any other feature likely to be harmful to the health, safety and

welfare of the future residents of the proposed subdivision and the residents of Missoula County. More specifically, it is the intent of these regulations to ensure the following:

(a) That areas of riparian resource support diverse and productive aquatic and terrestrial riparian systems and habitats and protect water quality;

(b) That stream channels, banks and lakeshores are protected;

(c) To ensure that an area of riparian resource will act as an effective sediment filter to maintain water quality;

(d) That the area of riparian resource will be protected to preserve large, woody debris that is eventually recruited into a stream to maintain riffles, pools and other elements of channel structure and further to provide provides shade to regulate stream temperature;

(e) That the area of riparian resource will be preserved to promote floodplain stability;

(f) That the public interest in the quality and quantity of surface and ground waters will be protected;

(g) To provide standards for development of land in areas of riparian resource that are site-specific, allowing for flexibility for development while maintaining the integrity of these areas.

(2) Designation as Area of Riparian Resource: An area of riparian resource means a stream, lake, wetlands or other body of water and an adjacent area of varying width where development affects wildlife habitat or water quality and quantity, fish, or other aquatic resources. The area of riparian resource encompasses a strip at least 50 feet wide on each side of a stream, lake, wetlands or other body of water, measured from the ordinary high water mark. The area of riparian resource may extend beyond fifty feet from the ordinary high water mark to include areas that require additional protection such as areas with steep slopes or erosive soils.

(a) The slope of the area of riparian resource is measured perpendicular to the stream or lake from the ordinary high water mark to a point 50 feet slope distance from the ordinary high water mark, as illustrated here in Exhibit __.

(b) The width of the area of riparian resource is 50 feet slope distance on each side of streams, lakes, wetlands, and other bodies of water measured from the ordinary high water mark, in all cases except where the slope of the riparian resource is greater than 20%, the area of riparian resource is 100 feet, except:

(i) where an established road exists between 50 and 100 feet from the ordinary high water mark, the area of riparian resource boundary is located at the edge of the road farthest from the stream; or

(ii) where the slope of the area of riparian resource decreases to 15% or less to form a bench that is 50 to 100 feet from the ordinary high water mark and at least 30 feet wide, the area boundary is located at the edge of the bench farthest from the ordinary high water mark or 100 feet from the ordinary high water mark, whichever is greater.

(3) Subdivision prohibition:

(a) **Except as provided in Sections 4 and 5 below,** no subdivision shall be approved which is determined to be wholly within an area of riparian resource. Subdivisions proposed which encompass portions of areas of riparian resource shall provide for protection of the resource specific to the area as recommended by staff and approved by the governing body.

(b) Subdivisions which encompass areas of riparian resource shall **place** development outside the riparian area. No improvements of any kind shall be approved which are within the area of riparian resource, including fencing. The area of riparian resource may be available to the development for purposes of determining density allocations or number of lots and to satisfy the requirement for a common area..

(4) Road and Trail Construction in the Riparian Area: No road ~~or trail~~ within the proposed subdivision shall be approved for construction within the subdivision located in an area of riparian resource unless the

road is for the purpose of crossing a stream. In the event that any roads are approved for construction, the following restrictions shall apply:

(a) The sidecasting of road material into a stream, lake, wetland, or other body of water during road construction or maintenance is prohibited in the area of riparian resource. The following additional standards shall apply to roads ~~and trails~~ in these areas:

(i) The slope of the area of riparian resource immediately adjacent to the stream is 10% or less for a distance of at least 25 feet from the ordinary high water mark;

(ii) Effective erosion and sedimentation control practices shall be conducted during all clearing, construction or reconstruction operations;

(iii) Road fill material shall not be deposited in the area of riparian resource or in such a location or manner so that adverse impacts will result to the area.

(b) The following guidelines for placement and construction of roads ~~and trails~~ shall be considered in construction of roads ~~and trails~~ in areas of riparian resource but may be waived with the consent of the director of the Office of Community Development.

(i) Roads ~~and trails~~ should be located on the fringes of areas of riparian resource rather than through them. In the event it is necessary to route a road ~~or trail~~ through an area of riparian resource, then open areas should be utilized in order to minimize impact on vegetated areas;

(ii) Roads ~~and trails~~ should not be constructed in areas whose soils have a high susceptibility to erosion which would create sedimentation and pollution problems during and after construction.

(iii) Roads ~~and trails~~ should not intrude into areas of riparian resource and open exposures of water and should avoid scenic intrusion by building below ridge crests and high points;

(5) Variance Procedure: The governing body may grant variances from the following requirements of this section if it determines that strict compliance will result in undue hardship and when compliance with the regulations is not essential to the public welfare. The governing body shall consider the factors contained in Section 3-13(1) in determining whether the criteria to grant a variance have been met.

(a) Designation of an area of riparian resource;

(b) Restriction of the development, improvement or road ~~and trail~~ construction in an area of riparian resource;

(c) Restrictions on the location or standards applied to the construction of roads ~~and trails.~~

(Probably incorporated into the regular definition section.)

() Definitions: The following definitions apply to areas of riparian value:

(d) "Construction" means cutting, moving and filling of earthen material that results in a travel-way for motorized and non-motorized vehicles or the site for a structure.

(e) "Established road" means an existing access or haul route for motorized or non-motorized vehicles that is passable under one or more of the following circumstances:

(i) as is;
(ii) with clearing of windfall or small woody vegetation;
(iii) with surface blading;
(iv) with replacement of stream crossing structures and drainage structures that were removed to restrict access; or
(v) with removal of constructed access barriers.

(g) "Lake" means a body of water where the surface water is retained by either natural or artificial means, the natural flow of water is substantially impeded, and which supports fish.

(h) "Ordinary high water mark" means the stage regularly reached by a body of water at the peak fluctuation in its water level. The ordinary high water mark is generally observable as a

clear, natural line impressed on the bank. It may be indicated by such characteristics as terracing, changes in soil characteristics, destruction of vegetation, **absence or change of vegetation,** presence or absence of litter or debris, or other similar characteristics.

(i) "Other body of water" means ponds and reservoirs greater than 1/10th acre that do not support fish; and irrigation and drainage systems discharging directly into a stream, lake, pond, reservoir or other surface water. Water bodies used solely for treating, transporting, or impounding pollutants shall not be considered surface water.

(j) "Road" means a travel-way suitable for motorized or non-motorized vehicles.

(k) "Sidecasting" means the act of moving excess earthen material over the sides of a road during road maintenance operations or excavation for structural improvements.

(l) "Slope distance" means the length of a line between two points on the land surface.

(m) "Stream", a natural watercourse of perceptible extent that has a generally sandy or rocky bottom of definite banks and that confines and conducts or continuously or intermittently flowing water.

(n) "Trails,"

(o) "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include marshes, swamps, bogs, and similar areas.

The motion carried on a vote of 3-0.

Colleen Dowdall stated that this procedure took a considerable amount of effort and she said she appreciated the part the Office of Community Development and Rural Planning played, including all the citizen input, especially Nick Kaufman and Dick Ainsworth, who consistently commented.

Fern Hart said these people bring a lot of experience to the discussions.

Barbara Evans read the following letter received by fax from Mickey Pablo of the Confederated Salish and Kootenai Tribes:

> The Confederated Salish and Kootenai Tribes are writing to request an extension of time to comment on your proposed subdivision regulation amendments regarding riparian areas. Our staff has been in contact with your planners since February regarding the Carrying Capacity Study being developed for Missoula County. Our assistance was requested regarding delineation of riparian areas whether the delineation should be a fixed width corridor based on vegetation classified by satellite imagery or a combination of both. We were also informed in February that draft regulations were being developed for riparian area protection. Janet Camel, our tribal resource planning coordinator, personally contacted Missoula County staff in February and March requesting a review copy. She was assured that a copy would be sent as soon as the draft was completed. Receiving nothing for another month, Ms. Camel asked County planner, Zoe Mohesky, about the draft when inquiring about another Tribal/County project on April 29th. Ms. Mohesky said the public hearing for the riparian area amendments to the subdivision regulations would be held May 4th. Although Ms. Mohesky immediately faxed a copy of the amendments, there has not been sufficient time for our staff to review them. The Tribes do not wish to jeopardize the resource by requesting this extension. Ms. Barbara Martens has assured us that any currently pending subdivision proposals will not be reviewed for two more weeks as the staff reviewer will not be in the office until then. We promise to review the draft amendments as expeditiously as possible and will have our comments to you by May 18th at the latest."

Ann Mary Dussault asked the staff to respond to the communications that have occurred with the Tribe. This letter is a one-sided view of the communications.

Pat O'Herren stated that on February 10th, he met with Janet Camel and other representatives, to discuss the Carrying Capacity Study. At this point the Tribe was asked to have their written comments to Missoula County by April 1st on the issue of which resources were most threatened. Subsequent to this, he did not receive anything from them, but received comments from other agencies. To-date, they have received comments from every State or private agency they have contacted on this issue with one exception--the Confederated Salish and Kootenai Tribes. After the meeting in February, he called Dale Becker of the Tribes who said that Janet Camel was in charge of the project. He promised him that he would get in touch with Ms. Camel; he got a phone call about a month ago and returned it, but Janet was

not in her office. He left another message asking for their comments in writing. Two weeks ago he wondered if there was personality problem and asked Zoe Mohesky to contact Janet Camel directly and tell her the County was eminent in terms of looking at this particular project and that the Tribes were the only ones hesitating in terms of providing comment. Janet Camel stated that she was still trying to work through the Tribal Council to get a full meeting to look at them. He said to the best of his knowledge this is the contact that occurred. The Tribe has had several months to look at what Missoula County is doing. They are the only agency that has not responded in writing.

Barb Martens stated that from a call that she received that morning, it appeared as though the Tribe may have not received the two draft mailings which was mailed to approximately 200 agencies.

Colleen Dowdall stated that the staff did fax the regulations to Janet Camel the Thursday prior to this meeting. The same draft was mailed to the agencies the day before. The Tribes would have received the draft one day before anyone else and would have had the same amount of time as the other agencies to comment on them.

Fern Hart said this link with the Tribes is very important and expressed appreciation for the staff's efforts. She encouraged the staff to continue in their efforts. The County needs the input of the Tribes.

Barbara Evans stated that she would contact the representatives of the Tribe to soothe this situation and gain their support and participation in the final regulations.

Ann Mary Dussault said that while she also thought this was important, some environmental groups she spoke with thought the Commissioners were moving too fast and thought they should wait. The development community and the Tribe also agreed that the Board is moving too fast. She said she figured what the Commissioners are doing is exactly right. The Commissioners get criticized for not doing anything. It is wonderful to see partys saying that the Commissioners are moving too fast. This is a substantial change in the way the Commissioners do business. The County has set the resources as the highest priority. The burden is now on the development community to demonstrate that the resource will not be damaged by the development. Historically, the burden of proof has fallen on the resource. This is a fundamental change and is one of the most significant thing the Commissioners have done as a result of the Carrying Capacity Study.

Ann Mary Dussault moved and Barbara Evans seconded the motion to adopt the edited version of the Subdivision Regulations with the following amendments:

1. Inclusion of the standard minor procedure which was deleted

2. Change in the language from "governing body" to "Missoula County".

The motion carried on a vote of 3-0.

The Subdivision Regulations, as amended, are on file in the Commissioners Office or at the Office of Community Development.

HEARING - CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER - HANN - PARCEL B OF COS 3238

Colleen Dowdall, Deputy County Attorney, explained that Jack and Brenda Hann submitted a request for two family transfer exemptions for Parcel B of COS 3238. This is a 20 acre parcel and Mr. And Mrs. Hann propose to transfer five acres to each of their daughters, Marilyn Hann and Ginny Hann.

The history of the parcel is as follows: the parcel was once a part of the Longpre Ranch of approximately 360 acres near Alberton. It was apparently divided at one time into 40 acre parcels and then 20 acre parcels in 1985. Brenda J. Hann purchased Parcel B in September, 1986.

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

The hearing was opened to public comment.

Brenda Hann said she and her husband have two daughters; their 18 year old daughter is graduating this year and the other daughter is 16 years of age. She said they feel they would like to give their daughters a piece of land that is theirs to give them a head start in life. They were concerned that when their daughters reach an age where they would be able to purchase land, there wouldn't be any land left to purchase in this area.

Fern Hart asked about the long and skinny configuration of the proposed five acre lots which both ran the entire length of the 20 acres.

Jack Hann explained that the lots lines were proposed in this manner because of the topography of the property, and to make it easier to survey the lots. He said he wanted to give each of his daughters a piece of what made the property special such as the creek and the meadow. The other part of the property is on a hill.

Ann Mary Dussault asked if the Hanns understood that the deeds would have to be transferred to their children?

Jack Hann stated that he understood this.

Ann Mary Dussault asked what happened when a minor child is given a piece of land; doesn't it have to go into a trust that is governed by someone other than the parent?

Mike Sehestedt explained that the conveyance according to the uniform gift to minors, states that the deed would be recorded in the minor's name which effectively makes it a trust. The minor can't convey it without subsequent consent of the guardian. As long as there are documents showing that the deed passing directly to the child, this in effect will create a trust.

Ann Mary Dussault said the child cannot transfer the property without the guardian.

Michael Sehestedt said it becomes an issue when disposing of the child's property. It should create title problems if anyone should abuse this. There is a potential defect to the title if the guardian should try to sell the property to another person. A legal guardian is the parent by operation of law.

Colleen Dowdall said it may be possible to require the parents file a guardianship action in order to transfer.

Ann Mary Dussault said she wanted the Hanns to understand some of the problems the Commissioners have had in the past. People have divided their property using the family transfer exemption which was not transferred to their child, but was transferred to a third party purchaser instead. This is in effect, an evasion of the subdivision law.

Michael Sehestedt said the only person who can receive a deed to the parcels is the Hann's daughters. After this there is the possibility of subsequent transfers, but it has to by the daughters or for their benefit.

Jack Hann said this is their intent.

Fern Hart referred to the issue of the long lots.

Jack Hann explained that because of the location of creek, they had to split the lots into the long pieces. They wanted to give both of their daughters the same benefits of the property. The configurations would also be the most simple to survey.

Barbara Evans explained that the Commissioners must determine if an applicant is trying to evade the Montana Subdivision and Platting Act, based on the history of the parcel and the applicant.

There being no further public comment, the hearing was closed to public testimony.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request by Jack and Brenda Hann for two family transfer exemptions for Parcel B of COS 3238, based on the finding that there is no intent to evade the Montana Subdivision and Platting Act and contingent upon the deeds being transferred to the applicant's daughters. The motion carried on a vote of 3-0.

HEARING: ANNEXATION INTO THE FRENCHTOWN RURAL FIRE DISTRICT

Fern Hart explained from information received from Phyllis Browder, Recording Supervisor in the Clerk & Recorder's Office, that a petition was received by the Clerk & Recorder's Office to annex a parcel of land located in Missoula County to the Frenchtown Rural Fire District.

The petition for annexation has been checked and verified. The petition contains signatures of more than 50% of owners of the privately land in the area to be annexed and a majority of the tax-paying freeholders within the area described, so they meet the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The area to be annexed is described as follows:

> Tract 1 of COS 3942, further described as: A tract of ground located in the Southeast (SE1/4) of Section 6, T14N, R22W, PMM, Missoula County.

The hearing was opened to public comment. There being none, the hearing was closed to testimony.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request for annexation to the Frenchtown Rural Fire District for the property described as Tract 1 of COS 3942, further described as: A tract of ground located in the Southeast (SE1/4) of Section 6, T14N, R22W, PMM, Missoula County, based on the finding that the request meets the requirements for signatures and there did not appear to be any opposition. The motion carried on a vote of 3-0.

Barbara Evans explained that a member of an area homeowner's association had requested that the hearing on the River Road Addition be postponed for one week because the members were unable to remain for the balance of the meeting. She wanted to know the staff's legal opinion as to whether or not this is a justifiable reason to postpone the hearing.

Colleen Dowdall asked about the timeline for the subdivision.

Ron Ewart said there is time remaining. The proposal went before the Planning Board a week earlier than usual.

Ann Mary Dussault suggested that the Board could probably get through the remainder of the agenda. If the Commissioners wish to leave the River Road Addition open for a week for comment, this can be done.

HEARING: RIVER ROAD ADDITION - PRELIMINARY PLAT

Ron Ewart, Planner at the Office of Community Development, explained that River Road Addition is a proposed 7-lot residential subdivision on 1.77 acres located in the NW 1/4 of the NW 1/4 of Section 20, T13N, R19W, at the southeast corner of Davis Street and River Road. The property is described as a portion of Lot 20 of Cobban and Dinsmore Orchard Homes. The proposal is to create 7 residential lots of 10,000 square feet and a common area of 7200 square feet. The developer has requested a Planned Variation to the lot width requirement of the CRR-3 zoning district, and to the length-to-depth ratio of the Missoula County Subdivision Regulations. There is no request to rezone the property. He said on April 19, 1994, the Missoula Consolidated Planning Board voted 5-1 to recommend approval of the Planned Variation request subject to the following conditions:

1. A site plan with typical building footprints and side elevations which may show single family detached and/or half-plex units shall be approved by the Board of County Commissioners prior to construction.

2. A landscape plan for the lots in the common area shall be approved by the Board of County Commissioners prior to filing the final plat. Front yard landscaping to include at least two six (6) foot deciduous and four five (5) gallon scrubs. Within the common area shall be installed an automatic irrigation system with backflow prevention. Street trees shall be installed at an average of 25 feet on center as per County landscape standards. Insulation of the landscaping for the entire development and the underground sprinkler system for the common area shall be included within the public improvements guarantee.

3. The developer shall provide a letter of commitment stating that the units in the subdivision will meet the price requirements for affordable housing under FHA guidelines at the time of submittal. Ceiling prices $83,600 including home, lot and improvements. If the developer is unable to meet this commitment, he shall explain the reasons to the Planning Board.

This currently vacant parcel and the surrounding area is zoned CRR-3, which allows up to 4 residential dwelling units per acre. The Missoula Urban Area Comprehensive Plan designates the area as suitable for residential development at a density of up to six units per acre. The development will connect to City of Missoula sanitary sewer that exists in both River Road and David Streets. Water is to be provided by either a community system or by future expansion of Mountain Water. The developer plans to build the residential structures; these may be half-plexes or modular homes on concrete foundations, or a combination.

The Community Development staff recommended that the River Road Addition preliminary plat be approved, subject to compliance with the following conditions:

1. Plans for street, walkways, grading, drainage, erosion control, paving, parking, and driveway locations shall be approved by the County Surveyor. *Section 3-2, 3-4, Missoula County Subdivision Regulations.*

2. Plans for water supply shall be approved by the Missoula City/County Health Department, the Rural Fire District, and the City Fire Department prior to construction. *Section 3-7.*

3. The developer shall provide sidewalks or pedestrian walkways as part of the public improvements guarantee. They may be located off the streets to be consistent with the design of a development plan that shall be approved by the Board of County Commissioners. *Section 3-2(5).*

4. The following shall appear on the face of the plat and on each instrument of conveyance: Acceptance of a deed to lot within this subdivision shall constitute assent of the lot owner to waive the right to protest an RSID/ SID for any improvements to Davis Street or River Road, and for installation of water services. The waiver shall run with the land and shall be binding on the transferee, successors, and assigns of the owners of the land depicted hereon. *Section 3-2(1)(B) and 3-2(10)(K)(3)(2), and comments of the County Surveyor.*

5. The Property-owner's Association Articles of Incorporation, By-Laws, Covenants and Restrictions shall be submitted and approved by the Board of County Commissioners prior to final plat. They shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the state of Montana; that they contain the applicable provisions required by the Missoula County Subdivision regulations, and any provisions upon which plat approval was based or conditioned; and that these provisions do not conflict. *Section 4-2(5)(D)(4).*

6. Excavation permits for sanitary sewer connections and driveway approaches to public roads shall be applied for and granted by the County Surveyor prior to construction. *Comments of the County Surveyor.*

7. If the common area is less than one-ninth of the combined area of lots, then the developer shall donate the remainder of the requirement in cash-in-lieu of park land into the County Park Fund. *Section 3-8.*

8. The preliminary plat approval is conditional upon approval of the planned variation. In addition to these conditions, the conditions of the planned variation shall be met prior to approval of the final plat.

He said within the criteria for a Planned Variation is the possibility of eliminating side yard setbacks in order to preserve open space. The developer could attach some of the buildings. Instead of having seven family detached units, they could have three half plexes and one single detached.

Gilbert Larson, Druyvestein, Johnson, & Anderson, representing the developer, Dave Theisen, explained that he understood the request to postpone the decision on this development is a hard one for the Board. It is the Board's desire to hear all the homeowners. However, the people present to comment on the development did not represent the homeowners association for this area, but are adjacent property owners. The homeowners association for this area is the Orchard Homes Country Life Club. However, there are great opportunities to comment on the various subdivisions that are reviewed such as at the Planning Board meetings, written comments, etc. There are many opportunities to comment prior to the final hearing before the Commissioners. He said both Ms. Klawitter and Ms. Snyder commented at the Planning Board meeting on April 19th which are included in the minutes and are part of the record. He said all of their comments went unopposed; there was no argument and the developer accepted everything that they had to say. He said it is important to note that the Commissioners have their comments in the record. He said he didn't know if there have been any changes since that time, but they have had the opportunity to make comment to the Board.

He said they are still committed to doing an affordable housing project on this site. Originally, the proposal was for 16 units and they made a commitment that the project would be affordable housing. Currently, the houses are at approximately $80,000 and are pushing the limit of being able to meet the affordable housing guidelines. He said there are costs associated with a one week delay such as one lost week of the building season, one week's worth of interest, etc. He said they are at the point where every $100 would make a difference on this project. He asked that the Commissioners take this into account.

He explained that there were two actions before the Commissioners; 1) planned variation and 2) the subdivision proposal. Both the Planning Board and the OCD staff recommended that the two actions be approved. The proposed subdivision is seven lots. They do not plan to decrease the lot sizes nor do they plan to ask for an increase in density. They requested approval for a more "energy minded" and innovative development. The Planned Variation would allow the lots to remain 10,000 square feet, but the configurations of the lots would allow two of the units to front directly onto the street with a third unit pushed back. This proposal would meet all of the zoning requirements with the same number of seven homes. Everything would remain the same except a lot of the open space was lost from the last proposal. Only three of the lots would exceed the depth to width ratio. He said they are not asking for very much. The lots will provide for more energy efficient use of the land. The side yard setback will be approximately 13 feet with 26 feet between buildings which is more than the zone requires.

He stated they concurred with the eight conditions of the preliminary plat. Regarding the conditions of the Planned Variation, they also concur with all three of the conditions; however, he stated they have reservations about what is being asked. The first condition would require that the developer bring the site plans back to

the Board for approval. He said if they were to change their plan or have variations, each would have to come back for approval. Typically, when they apply for a building permit, the plans must be reviewed by the zoning officer who determines whether it meets the subdivision criteria, the zoning criteria, the landscaping criteria, etc., after it is approved by the zoning officer and the Office of Community Development, the building permit is issued. H0 said the condition is requiring that each change be brought back to this Board for approval. They do not have a problem bringing the changes back, but there is a cost involved which would crowd the FHA loan limit further. This requirement is not "norm". If the Board would like to be more involved with viewing site plans, then they would concur. It is important for the Board to look at what is being asked and to see if it is normal for a subdivision.

He referred to Condition #2 which required various landscaping. He said they would like to change the method of landscaping. He proposed the following: "The covenants shall require front yard landscaping to include at least two six foot deciduous trees and four (5) gallon scrubs to be installed within two years of occupancy. Street tress shall be installed at an average of 25 feet on center per County landscape standards." He said they would also require that there be an annual assessment for the common areas to include the improvements such as the underground sprinklers and other improvements the homeowners want installed which will be included in their covenants. He said they would rather include these in the covenants as a subdivision improvement because it would be a part of the lot cost and a part of the financed amount. This would accomplish the same landscaping goal, but through the covenants. This would give them a better opportunity to make this project an affordable housing project with the ability to utilize what is now the 5.5% monies for financing available up to $83,600. This would accomplish the same landscaping, but it would not be a part of the house loan.

Regarding Condition #3, he said they concur with the condition as revised by the staff which required that a letter of commitment be provided by the developer. Mr. Theisen has indicated that he is willing to do this, but the commitment is already there. If they can keep the value of the homes under $83,600, the financing will stay at 5.5%. Mr. Theisen has been committed to affordable housing in this community for some time. He has sold over 50 units last time and has brought other projects before the Commissioners for affordable housing; he is committed to this goal. He wondered if anything would be accomplished if they write a letter and report why or why not they were able to do the project. If the project doesn't make it, the reason is the first project was protested and rejected by the residents. He said they are willing to concur with item 3, but felt that items 1 and 3 should be struck. Item 2 should be revised as suggested to allow the landscaping to be included in the covenants.

The hearing was opened to public comment.

Don Stinger, 245 North Davis Street, said Ms. Snyder and Ms. Klawitter must have their own recently formed homeowners association. He said the developers have done what has been required and are in compliance with the zoning regulations. As a co-chair of the Reserve Street Corridor Planning and Zoning Committee, he said they are trying to convert the existing County zoning to comparable City zoning. The comparable City zoning for this area would be RLD-4 which would allow duplexes at the same density as the County zoning. The new Comp Plan allows more. This area is to be annexed into the City this December. As proposed, the development will conform to the City zoning. He mentioned various upcoming subdivision proposals for this area. Growth is going to occur in this area; it can't be stopped. He urged the Board to expedite the approval of this subdivision.

Barbara Evans tried to clarify the proposal: the development meets the current zoning; this is the same piece of land previously brought in with the PUD which was successfully protested by the residents. The developers have followed the density rules. She said she reviewed the testimony in the minutes of the Planning Board meeting. At the hearing for the original proposal located at this site, the opposing residents indicated that they could accept a development that would follow the rules allowing for seven units per acre. She said the concerns of the residents at this time was sidewalks and access onto River Road which have been addressed.

Gilbert Larson said two issues were raised by Ms. Snyder and Ms. Klawitter at the Planning Board meeting. They felt that the traffic is so much of a concern that to add one more unit to this area would not be acceptable. They also indicated a concern about the existing density; seven units per acre was more than what they wanted. The number six was mentioned.

Ron Ewart said Ms. Snyder's main concern was the access onto River Road from this subdivision. He said he spoke with Horace Brown, County Surveyor, about this problem. Because the residents would have to go a distance of 30 feet to access River Road, a person would probably not back onto the street.

Horace Brown said after the residents back onto River Road a couple of times, they probably wouldn't attempt it again.

MAY 4, 1994 (CONT.)

Colleen Dowdall, Deputy County Attorney, said she reviewed the zoning which appears to have intended to require the developer to bring in a site plan. Both the site plans and the landscaping plans could go to the Zoning Officer instead of the Commissioners.

Ron Ewart said he thought that it could be up to the Board of County Commissioners whether they would want to approve the landscaping or the building footprints or elevations. He said it is important that all three items be included in the criteria for review. In the criteria for review, paragraph D9 states that each building shall be an element of an overall development plan. The zoning resolution allows for trade-offs which would allow a developer to have a slight variation to the zoning if the County could get something in return such as the chance to see what the buildings are going to look like. Another example of this is the landscaping. There should be a submitted landscape plan. He referred to Item #3 which required that the developer bring in a letter of explanation if the homes appraise over the FHA limits. The planned variation was considered based on the fact that this development was going to be an affordable project. In order for the staff to look at it in this light, it is good to have some type of commitment.

Barbara Evans referred to Item #2 requiring landscaping. The developer had suggested language to allow the landscaping to be put in two years after occupancy.

Gilbert Larson suggested that the first sentence be struck, followed by, "the covenants shall require front yard landscaping..." Also the last sentence could be struck which would require that improvements to be done through an improvements guarantee. This guarantee is a direct cost to the developers which has to be included in the price of the units. He said they wanted the same landscaping, but they didn't want it to be part of the money that has to be financed through the State Board of Housing. He said they wanted to allow the owner two years to install the landscaping. This would be the same time period the developer would have to install the same landscaping.

Barbara Evans asked who generally approved the footings, etc.?

Colleen Dowdall said both the footings and the landscape plan should go to the Zoning Officer. The criteria for a Planned Variation required a site plan, the elevation and a landscape plan. In order to delete the first sentence, they would have to go to the Board of Adjustment.

Fern Hart wondered how they could count on the homeowners to go ahead with the work on the landscaping and sprinklers?

Colleen Dowdall said in order to get the Planned Variation, it requires the development plan to include a landscape plan to illustrate the proposed treatment of space, roads, paths, service and parking areas. Landscaping shall conform to the requirements of Section 305 which states what the plan needs to include. It doesn't necessarily say that the developer has to do the landscaping, just that they have to do the plan. The landscape plan should be submitted to the Zoning Officer.

Barbara Evans asked if the wording could be changed to state that the landscaping should conform to Section 305?

Gilbert Larson said there were actually two items that caused difficulty with Item #2: 1) the process and the expense of bringing the proposal back before the Board; 2) the mechanism for doing the landscaping. He said he understood that there is a desire to review the plans. The plans have already been reviewed as well as the requirements for the size and number of trees. He said they do not have a problem with leaving the requirement to bring the landscaping plans in for approval to this Board. However, they want to keep the costs out of the loan value. This will still meet the criteria of the Planned Variation. In the original 16-unit proposal, they had very extensive landscaping, a sprinkler system, a one acre common area, etc. They cannot afford to do landscaping like this in this development and meet their goal. He proposed a minimum amount of landscaping with no sprinkler systems. He said they would love to put these amenities back into the proposal, but they are so close to their limit, they cannot. A $6,000 sprinkler system would work out to be approximately $1,000 per home.

Ann Mary Dussault stated that homeowners associations and covenants do not work. She suggested that the Board require the developer to do the landscaping for the lots but assess a maintenance fee for the common area to be of a sufficient amount over time to install sprinklers.

Barbara Evans agreed with this concept of a maintenance fee for the common area. Unless the area is a County park, this can't be done.

Ann Mary Dussault suggested that the homeowner's association could be responsible for development and maintenance of the common areas. She stated the exterior landscaping should be done by the developers.

Fern Hart said these folks will be people who will need affordable housing. In two years these people will still probably not have the money for a sprinkler system. A homeowners association in an affordable housing unit will not be able to do this.

Gilbert Larson said if they sell these units at $85,000, which is over the FHA guidelines, then the homeowners will have loans at 8.5% instead of 5.5%. The State Board of Housing sets a limit on the sale value of the home at $83,600. They also look very closely for any hidden costs in the selling price of the home that would add to it. If this amount is exceeded by even a hundred dollars, then the folks will have to get a conventional loan at 8.5%. They will lose a considerable amount of money each month in their payments. He said it is very hard to predict what their costs will be in this subdivision six months from this time when the houses go on the market. Lumber prices keep going up. Also, Mountain Water may or may not come into the area. The best price they can hope for is about $80,000.

Fern Hart asked if the compromise of putting in the street trees and scrubs, with the homeowners developing the common area would be acceptable?.

Barbara Evans said never in her life has she had the privilege of having a sprinkler system. The expensive homes have sprinkler systems. She didn't see why these people couldn't drag a hose around to water their lawns.

Gilbert Larson said the smaller the lots are, the easier it is to hand water. These are 10,000 square feet.

Ron Ewart explained that the OCD staff put this in the condition.

Gilbert Larson said originally, in the first subdivision, they proposed sprinkler systems for the lots, the common areas, etc. He said the reason they were able to propose such an elaborate landscaping plan was density.

Ann Mary Dussault asked about the County landscape standards. She wondered if the developer wanted to negotiate on the type and style of the landscaping to keep it under the FHA guidelines. She said it is better to have some landscaping which can be added to at a later time.

Gilbert Larson suggested that the landscaping requirements relative to the trees and scrubs remain. He said they are willing to concur with all of these items, but they do have reservations.

Ann Mary Dussault suggested that Item #2 require the Zoning Officer to review the landscaping plans; the sprinkler system would be deleted.

A discussion ensued relative to Item #3 which required the developer to write a letter of explanation.

Gilbert Larson stated that this item will not increase the developer's level of commitment to affordable housing.

Ann Mary Dussault said the Commissioners are asked to make concessions to make something affordable housing.

Gilbert Larson didn't like the condition, but said that this requirement will provide feedback; the Commissioners will know the reason why the project was not affordable.

Ron Ewart asked if the developers were proposing to build three half plexes and one single family residence?

Gilbert Larson said this would be their intent. He said they have the flexibility to do the attached or the detached. He said the developer plans to build three attached units and one single family unit.

Ron Ewart said when the staff recommended approval for the Planned Variation, it was determined that the half-plexes would provide for more open space. This was the underlying premise of the recommendation. If seven detached homes were built, nothing would be accomplished.

Fern Hart said she would not support a proposal with seven single family detached homes.

There being no further public testimony, the hearing was closed to public comment.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the River Road Addition Preliminary Plat request based on the findings of fact in the staff report and subject to the following conditions:

1. Plans for street, walkways, grading, drainage, erosion control, paving, parking, and driveway locations shall be approved by the County Surveyor.

MAY 4, 1994 (CONT.)

2. Plans for water supply shall be approved by the Missoula City/County Health Department, the Rural Fire District, and the City Fire Department prior to construction.

3. The developer shall provide sidewalks or pedestrian walkways as part of the public improvements guarantee. They may be located off the streets to be consistent with the design of a development plan that shall be approved by the Board of County Commissioners.

4. The following shall appear on the face of the plat and on each instrument of conveyance: Acceptance of a deed to lot within this subdivision shall constitute assent of the lot owner to waive the right to protest an RSID/ SID for any improvements to Davis Street or River Road, and for installation of water services. The waiver shall run with the land and shall be binding on the transferee, successors, and assigns of the owners of the land depicted hereon.

5. The Property-owner's Association Articles of Incorporation, By-Laws, Covenants and Restrictions shall be submitted and approved by the Board of County Commissioners prior to final plat. They shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the state of Montana; that they contain the applicable provisions required by the Missoula County Subdivision regulations, and any provisions upon which plat approval was based or conditioned; and that these provisions do not conflict.

6. Excavation permits for sanitary sewer connections and driveway approaches to public roads shall be applied for and granted by the County Surveyor prior to construction.

7. If the common area is less than one-ninth of the combined area of lots, then the developer shall donate the remainder of the requirement in cash-in-lieu of park land into the County Park Fund.

8. The preliminary plat approval is conditional upon approval of the planned variation. In addition to these conditions, the conditions of the planned variation shall be met prior to approval of the final plat.

The Board of County Commissioners also approved the Planned Variation for River Road Addition subject to the following conditions:

1. A site plan with typical building footprints and side elevations which may show single family detached and/or half-plex units shall be approved by the Zoning Officer prior to construction.

2. A landscape plan for the lots in the common area shall be approved by the Zoning Officer prior to filing the final plat. Front yard landscaping to include at least two six (6) foot deciduous and four five (5) gallon scrubs. Street trees shall be installed at an average of 25 feet on center as per County landscape standards. Installation of the landscaping shall be included within the public improvements guarantee.

3. The developer shall provide a letter of commitment stating his goal to initially sell each housing unit in the subdivision at a price which meets the FHA guidelines for affordable housing in effect at the time of sale. The developer shall then provide a follow-up written report to the Board of County Commissioners, explaining whether or not he was able to achieve this goal, and why.

The motion carried on a vote of 3-0.

Barbara Evans asked the legal counsel to draft a letter to Ms. Snyder and Ms. Klawitter explaining that the Commissioners carefully read their comments in the Planning Board meeting minutes and felt that they had the benefit of their testimony.

There being no further business to come before the Board, the Commissioners were in recess at 5:35 p.m.

MAY 5, 1994

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Dussault was out of the office all afternoon. The Commissioners attended the Community Prayer Breakfast in the morning. In the evening, Commissioner Hart attended the Developmental Disabilities Reception at the Holiday Inn and the Foster Grandparent Banquet held at Russell School.

Indemnity Bond

Chair Fern Hart examined, approved and ordered filed an Indemnity Bond naming Long Machinery as principal for warrant #256088, dated January 19, 1994, issued on the Road Fund in the amount of $739.54 now unable to be found.

MAY 5, 1994 (CONT.)

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-055

The Board of County Commissioners signed Resolution No. 94-055, a Budget Amendment for FY'94 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Adopted	Budget	Amended
Temp Salaries	$0	$772	$ 772
Fringe	$23,431	78	23,509
	$23,431	$850	$24,281
Description of Revenue		**Revenue**	
Targeted Case Management	$20,000	$850	$20,850

Medicaid requires a nutritionist for targeted case management. Medicaid will be billed for the services provided by this position, which will cover the salary for this position.

Deed Restriction Agreement and Subordinate Deed of Trust

Chair Hart signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with downpayment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

> Yakov and Natalia Grib, in the amount of $13,616.00, for the property at 2609 Mary in Missoula, dated April 29, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Other items included:

> The Commissioners appointed Ginny McCamant to fill the unexpired term of Jerry Marks as the representative of the Extension Office on the Missoula County Park Board through May of 1995.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MAY 6, 1994

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

Election Recount

In the forenoon, Commissioners Evans and Hart and County Auditor, Susan Reed, serving as the Board of Canvassers, conducted an election recount of the vote on the Bonner School Levy.

Contract Amendment

The Board of County Commissioners signed approval on a request from the Partnership Health Center to amend their contract to provide dental services to Basic Needs Assistance Program clients from June, 1993, to July of 1994, requesting that the remaining $6,000 in the dental services account be used to purchase the PAC I self-contained portable dental unit, which will allow PHC to better serve their clients.

Vickie M. Zeier
Clerk & Recorder

Fern Hart, Chair
Board of County Commissioners

MAY 9,1994

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

MAY 9, 1994 (CONT.)

Indemnity Bond

Chair Fern Hart examined, approved and ordered filed an Indemnity Bond naming Risk Management Publishing Co. as principal for warrant #255669, dated January 5, 1994, issued on the Risk Management fund in the amount of $90.00 now unable to be found.

Monthly Report

Chair Fern Hart examined, approved and ordered filed the Monthly Report of the Clerk of the District Court, Kathleen Breuer, showing fees and other collections made in Missoula County for month ending April 20, 1994.

Monthly Report

Chair Fern Hart examined, approved and ordered filed the Monthly Report of Sheriff, Doug Chase, showing items of fees and other collections on account of civil business in Missoula County for month ending April 29, 1994.

DAILY ADMINISTRATIVE MEETING

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

Contract

The Board of County Commissioners signed a Contract between Missoula County and the First Montana Title Company of Missoula for the purpose of performing tax deed title searches, for ownership and interest in real property, as per the terms set forth and the bid attached to the contract, with the work to be fully completed by 82 calendar days from date of contract. The Contract was forwarded to the Recording Office.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Susan M. Dean, RRA, an independent contractor, for the purpose of conducting workshops on CPT coding, defensive medical records and ICD-9-CM coding, and providing instructional materials on auditing medical records, as per the terms set forth, beginning April 27, 1994, through June 30, 1994, with payment at the rate of $65.00 per hour and $.28 per mile for travel between Helena and Missoula. The Contract was returned to the Health Department for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MAY 10,1994

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Dussault was out of the office all afternoon. No Administrative Meeting was held as the Commissioners were in a Growth Management Meeting all forenoon. In the evening, Commissioner Evans attended an Open Space Meeting held at the Library; and Commissioner Hart attended an Airport Planning Area Public Meeting held at the Hellgate Elementary School.

Plat

The Board of County Commissioners signed the Plat for Grant Creek View Addition, a rural residential subdivision located in the SE 1/4 Section 32, T14N, R19W, PMM, Missoula County, a total area of 17.15 acres, with the owners of record being Gilbert R. and Judith A. Johnston. No park dedication was required as the lots exceed five acres each in size.

MAY 11,1994

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

Audit List

Commissioners Dussault and Hart signed the Audit List, dated May 11, 1994, pages 4-31, with a grand total of $126,087.22. The Audit List was returned to the Accounting Department.

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Radio Shack as principal for warrant #48429, dated November 3, 1993, issued on the Missoula County High Schools fund in the amount of $157.05 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #8, pay date of April 15, 1994, with a total Missoula County Payroll of $452,758.85. The Transmittal Sheet was returned to the Auditor's Office.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #9, pay date of April 29, 1994, with a total Missoula County Payroll of $469,395.41. The Transmittal Sheet was returned to the Auditor's Office.

Amendment to Professional Services Contract

The Board of County Commissioners signed an amendment to the Professional Services Contract between Missoula County and Mary Gallagher extending the final contract date from February to June 30, 1994, as the pharmacy program is taking longer than expected to complete. The Amendment was returned to the Health Department for further signatures and handling.

Other items included:

a) The Commissioners approved a recommendation by the Missoula County Park Board to allow the construction of two covered shelters located at the Fort Missoula Complex, which will be funded from the Missoula City Parks and Recreation Department's enterprise fund;

b) The Commissioners approved a request by the Montana Association of Counties for a contribution of $118 from Missoula County to support the efforts in Congress to pass new payments-in-lieu of taxes (PILT) legislation;

c) The Commissioners ratified the appointment of Janet Stevens as the Interim Director of the Office of Community Development; and

d) The Renewable Resource Grant & Loan Program application was approved by the Commissioners.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

DECISION ON: BRANDIE ADDITION - PRELIMINARY PLAT - POSTPONED FROM APRIL 27TH

Barb Martens, Office of Community Development, explained that the original proposal had 17 lots with one existing single family home and 16 duplexes. There was a common area proposed on the north end of the property. Missoula Ready-Mix Concrete is located to the north. After a request by the Board of County Commissioners, the developers redesigned the project which still has the 17 lot density. They have taken the common area from the north end of the property and moved it into a more centrally located common area on the east side of Levitt Court. In addition, it was recommended that the developer also install a 4 foot high chain link fence around the perimeter of the subdivision. There are irrigation ditches on the east and north side; there is heavy commercial activity to the north as well. The idea of the fencing along Saulter Lane was to keep the toddlers away from the street or the ditch. The height of the fence will be low enough for an adult to go over it if necessary. Also, a ten foot long, 3 foot high berm easement was provided.

The Office of Community Development staff recommended approval of Brandie Addition subject to the following conditions:

1. The Property-owner's Association Articles of Incorporation, By-Laws, Covenants and Restrictions shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict.

2. Soil infiltration (commonly called grassy swales) shall be in the right-of-way of River Road to collect stormwater runoff until such time as River Road is upgraded with curb, gutter and sidewalk, and the swales are no longer necessary.

3. A 1-foot no access strip shall be shown on the face of the plat along the west property line.

4. The fire hydrant location shall be approved by the Rural Fire Marshal.

5. The developer shall install a 4-foot chain link fence along the entire west, north and east boundaries of the property.

6. The developer shall construct a landscaped berm along the northern boundary of the property within the 10 foot easement for the berm. The landscaping plan shall be approved by the Office of Community Development.

7. The developer shall place the following statement on the face of the plat and in each instrument of conveyance:

> "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owner(s) to any future RSID/SID for the purpose of financing the design and construction of a water system to serve this subdivision and may be used in lieu of their signature on an RSID/SID petition. This waiver shall constitute an agreement whereby the owner(s) shall connect to water within 180 days after public water mains are installed and available in the public right-of-way adjacent to the property. Such RSID/SID shall be to a municipal or regional system that specifically provides a benefit to the residents of this subdivision. This waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land described herein."

8. The developer shall place the following statement on the face of the plat and in each instrument of conveyance:

> "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID/SID for the upgrading of River Road. This may be used in lieu of their signature on an RSID/SID petition. This waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land described herein."

9. Housing shall be placed in a skewed fashion to maximize open space appearance. Housing locations shall be approved as part of the zoning compliance permit process.

10. The covenants shall include a provision that the common area shall be developed, including leveling, seeding and weed control, at such time as 50% of the homes are built. Provisions shall be made within the covenants to provide a mechanism for assessment of funds to provide for continuous maintenance of the common area.

Gilbert Larson, DJ&A, representing the developers, David Theisen and Rob Edwards, commented that they are in full agreement with the conditions as presented. He acknowledged the OCD staff who took the time to try to improve the design to provide for a central common area and make the area a better living area for the future residents. He said the only concern he had was with Condition #9 which required that the buildings be skewed. In order to add the berm at the north end of the property, they reduced the lot width by one foot. He said they would have to look into the question of whether or not by skewing the buildings, the side yard setbacks would be reduced to a point where more has been lost than gained. He said they will be able to skew the buildings to a degree, where at least it will break up the look of them. It may not be a lot of angle, but it will be enough to visually break up the buildings. He said they were not yet at the point of having a final design of the homes and it is difficult to answer the question of how much the buildings can be skewed and what will look the best.

Fern Hart re-opened the hearing for public comment relative and specific to the new proposal.

Joy Earls, 1905 River Road, said it was her understanding that the Comp Plan called for six units per acre. According to the OCD staff report, the density for Brandie Addition was seven units per acre. Clearly, this exceeds the Comp Plan. She said she attended a meeting which addressed the need to rezone the area. She mentioned another subdivision by David Theisen in the same area where the rezoning was protested successfully by the residents. This subdivision was originally very dense and ugly. The subdivision was

redesigned and resubmitted at seven units per acre with half-plexes. The developer worked with OCD and set a nice precedent by coming up with a good design for this land. She stated that this subdivision will look like a block of houses and will be very ugly. It will also set a dangerous precedent for this area. Once the Commissioners approve this density and design, the area will be open to every development that comes in at whatever density.

Don Stinger, 245 North Davis, said this area is zoned ZD-16 which has no residency limits. From a zoning standpoint, this subdivision is in compliance. The City commissioned a $50,000 study of the Reserve Street Corridor which designated this area at a density of eight units per acre. He said if the developers can break up the homes by skewing them, it wouldn't look so much like a trailer court with blocks of houses.

Ruth Brinkerhoff, 1923 River Road, wondered how the dust and noise could be controlled in this area? The trees will not completely stop the noise and dust. She wondered why the Commissioners changed their minds on the subdivision?

Barbara Evans explained that at the last meeting on this matter, she made a motion to deny the subdivision, but changed the motion to postpone the decision. The Commissioners met with the developers and the OCD staff to review the subdivision as well as to listen to what the residents had to say. She stated the hearing is not finished and the decision has not been made.

Ruth Brinkerhoff said the new design is not much different than the original. The resident's concerns about traffic, dust and noise have not been addressed. What is the County going to do? River Road is not the place to put these people who need housing.

Barbara Evans stated that everyone says this is not the place.

Ruth Brinkerhoff wondered why it had to be River Road which is currently such a wonderful place to live? This is a farm community and the subdivision is far too dense. It will destroy the whole community.

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

Fern Hart referred to the Planning Board minutes and asked about the density issue. At the Planning Board meeting, Ron Ewart made the comment, "when we look at the overall densities, the 33 units on 4.37 acres comes to 1 per 7.5. Of course there are different ways, but we did say that we were talking overall density of 7.5 and we did bring it out that this does exceed the Comp Plan."

Barb Martens said the Comp Plan designates this area at a maximum density of six dwelling units per acre. The density proposed is 7.5 units per acre and is a little higher than what the Comprehensive Plan recommends.

Fern Hart stated Don Stinger was talking about zoning, not the Comp Plan. The comp Plan designates this area as 6 units per acre. The zoning district does not have density limits.

Barb Martens said the zoning district does not have a density requirement within it. There are no setbacks, density requirements or minimum lot sizes.

A discussion ensued relative to the plan mentioned by Don Stinger which would allow 8 units per acre. It was concluded that the plan referred to was a study which was commissioned by the City and was completed by Charlie Vandam.

Fern Hart asked if the development was in compliance with the Comp Plan?

Barb Martens stated that the proposed density of the subdivision was 7.5 units per acre and the Comp Plan designation was 6 per acre.

Fern Hart said she had a discussion with Horace Brown, County Surveyor, who indicated that if curbs and gutters were installed, sumps would have to be used instead of grassy swales. If the Commissioners approve this subdivision, she recommended that sumps be included with the curbs and gutters. She asked if the proposal included sidewalks?

Barb Martens stated that the proposal included 5 foot sidewalks along with curb and gutter adjacent to the cul-de-sac.

Horace Brown said if sumps weren't required on the cul-de-sac, all the water would run onto River Road which would create a worse mess. Sumps are needed if curb and gutter are installed because the water has to be kept on-site; it can't be taken off-site.

Barbara Evans said she inquired as to the density earlier that day and was told that the subdivision met the density. She said she asked the developers to skew the homes so that the open space would show to the best advantage. The developers have complied with this request. She asked Gilbert Larson if they could construct common wall duplexes to maximize the open space even more?

Gilbert Larson said it would not change the density and would not create any more open space as the proposal is for duplex lots. The duplexes are not set up to where each duplex would have two owners. In this case, each duplex would have one owner and one half would be a rental. He said he understood that Zoning District 16 would not allow the same configuration as River Road Addition which was in a different zoning district. This zoning district allowed for planned variations.

Barb Martens said Zoning District 16 allows only single family and duplexes as permitted uses.

Bud Hettich, Zoning Officer, explained that anything not specified in the standards would require a variance from the Planning and Zoning Commission with a recommendation to the Commissioners for final approval.

Colleen Dowdall said if three duplex units were eliminated, the density would be in compliance with the 6 units per acre.

Barbara Evans asked if River Road was located in the Air Stagnation Zone and if it would be eligible for CMAQ money?

Horace Brown said River Road is paved. Only dirt roads are eligible for CMAQ funds. The dust occurs on Saulter Lane which is a private roadway.

Barbara Evans said River Road is not a properly constructed road.

Horace Brown said it has to be a dirt road to receive these funds. However, if bikeways or walkways were put in, enhancement funds could be used.

Gilbert Larson commented about the density issue. The area is going to be annexed by the City in December. The area will allow 8 units per acre once it has been annexed into the City. The staff felt that the subdivision was in compliance because it is affordable housing which would qualify for flexibility and density allowances. The increase in density amounted to a 25% increase for affordable housing which had been recommended by the Affordable Housing Task Force and several other agencies working with OCD to develop guidelines for affordable housing. He said this was the reason OCD felt they could support the increase in density to 7.5 units per acre.

Barbara Evans asked what price range the homes would sell for?

Gilbert Larson said the average market rent would be $600 per month. There will be the opportunity to buy these units in the future. He didn't know what they would sell for at this time. While Mr. Theisen currently intended to retain ownership of the units, over time, he intended to sell the units.

Barbara Evans suggested that the whole point of the landscaping on the berm would be to reduce noise and dust. She suggested tall, columnar scrubs or trees.

Gilbert Larson agreed with this. OCD would have to review and approve the landscaping plan.

Colleen Dowdall stated that OCD had recommended that the overall density be lowered to more closely meet the Comp Plan designation and the character of the neighborhood. Condition #8 required that the number of duplex units not exceed 14 lots.

Gilbert Larson said Condition #8 was not included in the staff report to the Planning Board.

Fern Hart said the Planning Board worked hard on their recommendation. She mentioned the comments made by Troy Kurth of the Planning Board who commented on the existing 23 parcels adjacent to River Road. He wondered how much this subdivision would precipitate traffic in the area. He went on to comment that the infrastructure was not designed to handle this development. She said there are several more subdivisions proposed for this River Road area.

Barb Martens said there have been preliminary discussions, but nothing has come in for review.

Fern Hart referred to Troy Kurth's comment that he didn't feel this subdivision was infill development and wanted to see the whole area planned before it was developed. She stated that although this was desired by everyone, this was "pie in the sky" thinking. People will be continually upset at this method of development and review, but it will continually happen this way. She stated she didn't know how to

consider this. This area will be developed. When the City annexes, there may be higher density. The area does not have adequate zoning. The zoning district does not really say anything.

Ann Mary Dussault moved to deny the preliminary plat of Brandie Addition. The motion died for lack of a second.

Ann Mary Dussault explained that it is important to remember that a plan is a set of guidelines. When a plan indicates that density can occur up to a certain level, density might occur up this level. This is not a mandate that the density occur at a certain level or beyond it. She said the key indicator in this proposal is that the subdivision has to be surrounded by a chainlink fence. There is something inherently wrong when a proposed subdivision of land has to be surrounded on three sides by a chainlink fence. This particular piece of property, in this particular location, has a set of problems that needs to be dealt with in and of itself. She cautioned that she was not generalizing every piece of property on River Road. She stated that there has consistently been a number of complaints to the Health Board about this particular area and its proximity to the cement plant which had to do with noise, dust, and other results of the processing at the plant. She stated for these reasons she did not support the subdivision. The density is highly inappropriate for this property.

Barbara Evans moved and Fern Hart seconded the motion to approve the preliminary plat of Brandie Addition based on the findings of fact, contingent upon the requirement that the density comply with the Comprehensive Plan and subject to the following conditions:

1. The Property-owner's Association Articles of Incorporation, By-Laws, Covenants and Restrictions shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict.

2. Soil infiltration (commonly called grassy swales) shall be in the right-of-way of River Road to collect stormwater runoff until such time as River Road is upgraded with curb, gutter and sidewalk, and the swales are no longer necessary. The location of the sumps shall be determined by the County Surveyor's Office.

3. A 1-foot no access strip shall be shown on the face of the plat along the west property line.

4. The fire hydrant location shall be approved by the Rural Fire Marshal.

5. The developer shall install a 4-foot chain link fence along the entire west, north and east boundaries of the property.

6. The developer shall construct a landscaped berm along the northern boundary of the property within the 10 foot easement for the berm. The landscaping plan shall include tall scrubs and trees as noise and dust buffers and shall be approved by the Office of Community Development.

7. The developer shall place the following statement on the face of the plat and in each instrument of conveyance:

> "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owner(s) to any future RSID/SID for the purpose of financing the design and construction of a water system to serve this subdivision and may be used in lieu of their signature on an RSID/SID petition. This waiver shall constitute an agreement whereby the owner(s) shall connect to water within 180 days after public water mains are installed and available in the public right-of-way adjacent to the property. Such RSID/SID shall be to a municipal or regional system that specifically provides a benefit to the residents of this subdivision. This waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land described herein."

8. The developer shall place the following statement on the face of the plat and in each instrument of conveyance:

> "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID/SID for the upgrading of River Road. This may be used in lieu of their signature on an RSID/SID petition. This waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land described herein."

9. Housing shall be placed in a skewed fashion to maximize open space appearance. Housing locations shall be approved as part of the zoning compliance permit process.

10. The covenants shall include a provision that the common area shall be developed, including leveling, seeding and weed control, at such time as 50% of the homes are built. Provisions shall be made within the

covenants to provide a mechanism for assessment of funds to provide for continuous maintenance of the common area.

Fern Hart commented that she didn't have any joy in seconding this motion to approve the subdivision. The positive side of this subdivision is that it is providing needed affordable housing units. This is a way for someone to buy a unit and have an opportunity to rent it. She said she was frustrated at the impacts of this subdivision on the area. Every part of the County is getting the same thing. Just as the staff and the Planning Board must have agonized about this, so are the Commissioners.

Barbara Evans said the County Commissioners have a dilemma; the State law requires public hearings on the subdivisions. However, at the last Legislature, the criteria for the Commissioners' decision was eliminated that dealt with expressed public comment. The Commissioners are supposed to have a public hearing, but they aren't supposed to pay attention to what the public says when they come. This is a dilemma. It is not fair for the public not to be heard when they elect the Commissioners to listen to their needs. She stated she read the Planning Board minutes and the comments by the Planning Board and the residents. She read the concerns and supported the motion to postpone the decision. She said she didn't like the original proposal because the common area was located in a poor place where no one would take care of the park or have the ability to keep an eye on their children. At the same time, the Commissioners give lip service to the need for affordable housing. They cannot continue to give lip service if they expect to provide housing. If Missoula County residents want housing for their children and for their parents, there must be a broad spectrum of housing available. Affordable housing must go everywhere, not just in one location. Everyone must have their share. She said she listened to the residents' concerns and asked for things that would address these concerns. There is no way this piece of land will not be developed by someone. The fact that there are irrigation ditches may not stand up in court as a legitimate reason to deny this subdivision. The developers have met the requirements. The density must comply with the Comp Plan. The County could not legally or legitimately deny the subdivision based on the existing zoning. The developer could take the County to court and the County would probably lose which would be another expense to the taxpayers. The Commissioners tried to come up with an acceptable compromise on this subdivision, but the developers will not be happy with the reduction in density. The reduction in density may mean that the subdivision will not be able to be considered affordable housing. She said the decision to approve the subdivision was not intended to ignore the residents' concerns.

Ann Mary Dussault said that legally, the Commissioners can turn down this subdivision. She asked the legal staff to advise whether this can be done. She said she wanted to clarify whether or not any subdivision had to be approved even though it met the density of the Comp Plan.

Barbara Evans said this issue was not based solely on the density. She said she didn't think that the developer violated any of the legal criteria.

Michael Sehestedt, Deputy County Attorney, said the question of whether or not the County can sustain a denial of a particular subdivision depends entirely upon the facts as found by the Board of County Commissioners as they relate to the statutory criteria. If the Commissioners find that the subdivision meets the statutory criteria, then the Commissioners are obligated to approve it. Discretion arises when making the underlying determination under each of the specifically identified criteria. There is a presumption of regularity or correctness that attends the Board's actions. It won't supply support of a clearly deficient record. The courts will look to the record to see if there is substantial credible evidence to support the Commissioner's determination. The answers as to whether or not the County could legally sustain a refusal of a subdivision depends upon the facts as found by the Commissioners.

In response to an earlier comment, he said the Legislature in the last session eliminated the term "expressed public opinion" from the list of criteria to determine whether or not to approve a subdivision. This does not mean that the Commissioners will not hear the public when they speak. There must be testimony specific to the issues involved in subdivision approval. The specific issues include impacts on water, utilities, transportation, condition of the roads, road intersections, suitability of the area, etc. He said it isn't that the public's comments are meaningless, but the Commissioners can no longer base a decision upon a nose count at a public meeting. He said he didn't think Missoula County has been terribly guilty of this, but it was eliminated as a criteria because the outcry of "Not in my backyard" was prevailing. If however, there is limited testimony, but it contains convincing facts regarding inadequate sanitation, water, etc., this alone would justify a denial. He said he didn't want the folks to feel that the Commissioners wouldn't listen and that their testimony is meaningless.

Ann Mary Dussault argued against the motion. She stated that it was her belief that there was sufficient and sustainable reasons to deny the subdivision. This is a subdivision that has to have a four foot high fence around the entire subdivision. This is a direct reflection of effects on public health, welfare, and safety which is an expressed criteria--Criteria #5. The discussion of this criteria speaks directly to the issues concerning the Missoula Ready-Mix plant. She said from experience, it is known that this plant and its proximity to this subdivision is going to create a lot of problems for these residents. If nothing else, the Board should be prepared to deal with that when the complaints come in.

MAY 11, 1994 (CONT.)

The motion to approve Brandie Addition, preliminary plat, carried on a vote of 2-1 with Ann Mary Dussault voting against the motion.

Barbara Evans stated that the residents need to write or petition the Board of County Commissioners detailing their interest in amending the current zoning district rules. She said if the residents so wish, they may send such a letter which will be referred to the County Attorney's Office. The County Attorney's Office can aid the residents in the process of amending the zoning. The current zoning is not helping the residents.

HEARING: APPEAL OF FLOODPLAIN ADMINISTRATOR'S DECISION - DENIAL OF FLOODPLAIN PERMIT & REZONING REQUEST - PROPERTY AT 4865 LOWER MILLER CREEK FROM C-A3 TO C-RR2 FOR GEORGE REYNOLDS

Bud Hettich, Floodplain Administrator, explained that this is an appeal by George Reynolds of the Zoning Officer's decision to deny a floodplain permit. The request was to provide a filled area 85 feet deep by 425 feet long along Lower Miller Creek Road to provide for future development of four single family dwellings. The floodplain hearing was held prior to the zoning hearing by the Planning Board. The decision to deny the floodplain permit was based on five major reasons as follows:

1. The proposed development will deplete an important flood storage area. A 1974 photo shows this area under water and that flood was a fifty-year event;

2. The importance of the services provided by the facility to the community. The proposed project serves no community-wide purpose. It would endorse further requests for floodplain permits along this and other flood-prone lands. There are adequate amounts of building sites not in any floodplain within the suburban Missoula area. There has been too many unnecessary developments allowed in the County's floodplains, and to allow more would create a greater potential disaster for those who have presently put themselves in danger plus those who now wish to do the same;

3. The relationship of the proposed use to the comprehensive plan and floodplain management for the area. The subject property lies within an area designated Parks and Open Space, with planning policies that are in conflict with this proposal;

4. The proposed use shall comply with existing zoning. The proposed use does not comply with the existing C-A3 zoning; and,

5. Specific legislation - Riparian and Wetland requirements adopted to the County's Subdivision Regulations.

Other factors that support the denial of this request:

* Such areas bordering waterways have the open space value as wildlife habitat.
* Filter pollutants from runoff and in preventing erosion.
* Surface water quality is critical for maintaining fisheries and wildlife, for recreationists, and because of its relationship to groundwater quality;
* Maintaining surface water quality is vital to maintaining an adequate supply of domestic water in the urban area.
* An adequate supply of surface water is an equally crucial factor for agriculture, recreation, fisheries and wildlife, residential and other land uses.
* Groundwater quality in the urban area has emerged as a major issue since adoption of the 1975 Plan.
* The majority of the urban area population relies upon the Missoula aquifer for water.

Terry Forest, Druyvestein, Johnson & Anderson, addressed the staff report as presented by Bud Hettich. He referred to the comment made relative to a depletion of floodplain storage. When building in a floodplain area, this is a very important question to consider because it may have a negative affect on others. He outlined the methods of determining floodplains as used by the State Floodplain Office. The Corp of Engineers developed FEMA maps by determining the time period of a 100-year flood and how much that 100-year storm would produce; a base flood elevation is established from this information. This data is loaded into a computer model. This model takes the floodplain area and shrinks it until it gets to a point where the middle raises six inches or one foot. Federal requirements are one foot; State of Montana requires six inches. The computer model determines the net impact within the drainage way or floodway at a maximum of six inches. The land in question is within the floodway fringe, not within the floodway. This property is 850 feet away from the floodway. The FEMA Flood Insurance Study states: "The area between the floodway and the 100-year floodplain boundaries is termed the floodway fringe. The floodway fringe encompasses the portion of the floodplain that could be completely obstructed without increasing the water surface elevation of the 100-year flood by more than five tenths of a foot." In other words, he said if the entire area from Miller Creek Road, 850 feet to the Bitterroot River, was completely filled, it would have no more than a half a foot impact on the river elevation. He said the velocity may increase. Based on this, and

the fact that the fill is only less than 1400 cubic yards, the net impact would be one-twentieth of an inch. This is one percent of the six inches allowed. It is clear that there will not be a depletion of the floodplain storage area due to this particular infill development. This is based on the FEMA criteria and the State Floodplain Office.

He said when they worked with Bud Hettich and Philip Maechling of OCD, they tried to keep the house sites as close to the road as possible to minimize the infill. He said there would be no problem increasing the lot setbacks to provide a larger frontage to the road. He wondered how this infill development, if approved, would endorse further development along Lower Miller Creek Road. When this whole process started, a neighbor was interested in splitting his lot as well. When he saw the process and the cost involved, he pulled out. He said he couldn't say whether or not they would try again. However, along Lower Miller Creek Road to Linda Vista Boulevard, he could foresee two, possibly three more building sites as well as the four sites requested now. He said the question concerning the rear of the lots would be addressed during the subdivision process. There is no access to the rear of the lots. He said during the flood in 1974, the Reynolds pasture had two to six inches of water. A 50 year flood, according to FEMA, carried water equal to 29,000 cubic feet per second. A 100-year flood in the same section is 31,000 cubic feet per second. This is a back wash area because of the Buckhouse Bridge. The difference between 29,000 and 31,000 is a depth of six inches. If the flood in 1974 would have been a 100-year flood, based on the FEMA criteria, there would have been one foot in their pasture. The maximum depth of the floodplain that would be eliminated for a 100-year flood would be around two feet.

Fern Hart explained that testimony would be taken that dealt with the floodplain permit appeal. After this matter has been heard, a staff report relative to the rezoning request would be given, followed by a hearing. The decision for both items would be voted upon separately.

The hearing was opened to public comment. There being none, the hearing was closed to public testimony.

The staff presented their report on the rezoning request by George Reynolds.

Jennie Dixon, Office of Community Development, explained that this is a request by George Reynolds to rezone a 2-acre parcel located on Lower Miller Creek Road, approximately 1000 feet south of the intersection of Lower and Upper Miller Creek Roads. The rezoning request is to go from "C-A3" to "C-RR2" to allow for the future subdivision of this property into four ½-acre parcels.

The current zoning (C-A3) allows one dwelling unit per five acres, and the requested C-RR2 zone allows up to two dwelling units per one acre.

The staff recommended that the rezoning request be denied. The request does not appear to be consistent with the Comp Plan designation of Parks and Open Space. The request for an increase in residential density goes in the opposite direction of promoting development of this land as outlined in the Comp Plan. This rezoning request may signal the beginning of the expansion of more dense residential development into an area that serves as flood water storage for the Bitterroot River.

The subject property is within the 100-year floodplain. Mr. Reynolds submitted an application for a floodplain permit, and the County Floodplain Administrator denied issuance of a permit.

Services such as power and sewer appear to be available to the area. Individual water wells are proposed to serve each of the proposed four lots. Lower Miller Creek Road would not be disturbed to facilitate service the proposed four lots.

In addition, a letter was received from a citizen concerned about the traffic impacts of the proposed development. Mr. Reynolds brought four letters of support to the Planning Board public hearing.

The Planning Board voted 4 to 2 to recommend that the rezoning request be denied. Given the property's current zoning, the Comprehensive Plan designation, and the trend of development encroachment on the floodplain, the staff recommended that this rezoning request be denied.

Terry Forest referred to a recent aerial photo which highlighted the existing residential units in the area. This is not a spot density request, but is an extension of a density request. Virtually everything on the east side of the road is designated two or three units per acre. On the west side of the road is one unit per five acres. He said they did not agree with the interpretation of the intention of the Comp Plan that the centerline of Lower Miller Creek Road was the dividing point that separated parks and open space from residential area. Using the aerial photo, he showed the density of the surrounding area. 2,000 feet to the north is zoned at two homes per acre; 2,000 feet to the south is built at two homes per acre; 1,300 feet directly east is built at two homes per acre. There is C-RR2 zoning in place within 1,300-2,000 feet from the proposed rezoning. He said the sewer is available for the four lots. A gas line has been installed in the area as well. Regarding the concerns about traffic safety, he said there are safety concerns on any road. The subdivision proposal has not yet been submitted that would deal with access onto Lower Miller

Creek. They have discussed two driveways which would serve the four lots to minimize the access. The existing inside curve of the road is minimal and has been straightened with the redesign of Lower Miller Creek Road. Utilities such as sewer, gas, telephone, and electricity are available and will have no impact on the County. Water will be provided from wells.

He said the Comp Plan should have drawn the boundaries to the west of Lower Miller Creek Road. It is appropriate to develop along Lower Miller Creek Road. He referred to and agreed with the comments made by Doris Fischer of OCD, who said, "The major goal which is stated more than once in the Plan refers to the manner in which the land should be allocated and developed for residential use. Encouraging a residential land use pattern would provide a high quality living environment to a variety of residential settings, protect public health and safety, minimize local government service costs, and preserve natural resources." He said this strip along Lower Miller Creek would buffer and protect everything behind it.

Fern Hart opened the hearing to comment relative to the rezoning request.

Nancy Tredik, the Reynolds' daughter, said she and her family live in Linda Vista. After the sewer was put in, ten homes were built across the street which blocked their views. They are anxious to get into another area where they can have open views again. No one would be able to build between them and the river. She referred to the OCD staff letter relative to this request and said they would like to rezone about 1,000 feet. There are four homes which exist from the Wye to the two acres in question. There are three other homes approximately 300 feet in the other direction. The open space is located behind the homes to the river. The surrounding properties are zoned two units per acre. The road was designed for the traffic and they plan to have two driveways which would serve the four lots. The proposal will not create undue concentrations of homes. She agreed with Mr. Forest's comments relative to the availability of utilities and the minimal impact of this subdivision on the flood storage for the Bitterroot River. They plan to remove a large dike which currently takes away from the flood storage area. This will be used for top soil for the homes. She said that the Planning Board made the comment that approval of the rezoning would start the ball rolling for more rezoning requests. She wondered where further development could occur other than what has been stated. Each request should be considered on its own merits. All adjacent landowners have signed letters of support.

There being no further public comment, the hearing was closed to public testimony.

Colleen Dowdall, Deputy County Attorney, recommended that the Commissioners act on the zoning issue first because the criteria for approval of the floodplain permit requires that the proposal should comply with existing zoning. If the zoning is not approved, then it would not comply with the floodplain permitted.

Barbara Evans asked how much land the applicants are asking to rezone.

Jennie Dixon said approximately 2 acres.

Fern Hart said the request for the rezoning represents four lots on two acres. The zoning would change from C-A3 to C-RR2.

Michael Sehestedt, Deputy County Attorney, said the change will be an alteration of existing boundaries. The four lots will be added to the existing zoning. A two acre zoning district is not being created.

Fern Hart asked if the current zoning prevails which allows one unit per five acres, would the Reynolds' still be able to build one home on the existing lot?

Bud Hettich said the total acreage is 10.93 acres. The Reynolds' could build one more home on the property and still comply with the current zoning.

Fern Hart asked if the zoning request fails, would they still have to come in for a floodplain permit?

Bud Hettich said yes.

Ann Mary Dussault said the tract was originally created by a Certificate of Survey. She wondered how large the original tract was and how many lots were created when the property was split?

George Reynolds said he originally bought an eleven acre tract. However, an acre was taken by Lloyd Twite for the golf course on the back side of the property and he got a half acre of a twenty foot right-of-way easement from Lloyd Twite. He stated he still owned over ten acres.

Ann Mary Dussault asked how much property did the original owner have?

George Reynolds said approximately 40 acres. This was divided into 10 acre parcels.

Terry Forest said the lots were split into long parcels.

Barbara Evans made a motion to adopt a resolution of intention to amend the C-RR2 zone by adding a 2-acre parcel located on Lower Miller Creek Road, approximately 1000 feet south of the intersection of Lower and Upper Miller Creek Roads.

Michael Sehestedt said the effect of an approval would be to adopt a resolution of intent to rezone. The resolution would be subject to publication and notice of the intention to rezone. There will be a 30 day protest period in which the property owners of the area being rezoned, the property owners in the C-A3 zone, and the property owners in the C-RR2 zone, have the right of protest.

The motion died for lack of a second.

Ann Mary Dussault moved and Fern Hart seconded the motion to deny the request by George Reynolds to rezone the property described as a portion of Tract 4 COS #4033 in the Lower Miller Creek area from C-A3 to C-RR2. The motion carried on a vote of 2-1 with Barbara Evans voting against the motion.

Ann Mary Dussault explained that so much of the Missoula valley has been subdivided by Certificate of Survey. This division of land was done without any review whatsoever. It was done not by design, but by default. By carrying the zoning across to the property on the south side of the road, the Commissioners would be continuing a pattern that is not justified by the topography of the land. She said she understood that the current zoning allowed a second dwelling unit on the property. She wondered if it would be appropriate to act on the request for a floodplain permit?

Michael Sehestedt said the Commissioners could authorize fill for an additional unit consistent with the existing zoning for this area. However, an additional unit may well be achieved by using a family transfer exemption which would not have to go through subdivision review.

Ann Mary Dussault said this process got confusing because there was a simultaneous request to rezone along with a floodplain request.

Ann Mary Dussault moved and Barbara Evans seconded the motion to direct that the Floodplain Administrator's decision to deny the floodplain permit be overridden on the condition that the application for a floodplain permit be consistent with the current zoning. The motion carried on a vote of 2-1 with Fern Hart voting against the motion.

HEARING CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER - SANDSTROM LOT 5 AND THE SE1/4 NE1/4 OF SECTION 8, T14N R22W

Kathy Smith, Paralegal from the Attorney's Office, explained that Robert and Laura Sandstrom submitted a request for three family transfer exemptions for Lot 5 and the SE1/4 NE1/4 of Section 8, T14N R22W. This is a 55 acre parcel and Mr. and Mrs. Sandstrom propose to transfer two 1.5 acre parcels and one 1.8 acre parcel to each of their children, Samuel M. Sandstrom, Sue A. Sandstrom and Dixie L. Sandstrom.

The history of the parcel is as follows: Mr. And Mrs. Sandstrom purchased the parcel in 1973 from Joyce Sandstrom. In 1977, an occasional sale exemption was used creating a 5 acre parcel.

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

The hearing was opened to public comment.

Robert Sandstrom said he and his wife wanted to give land to their three grown children. He said one road would serve all three lots. He said they plan to transfer the deeds to their children. One plans to build immediately, but the other two will probably build eventually.

Ann Mary Dussault said after the transfers are completed, a 50 acre parcel remains.

Robert Sandstrom said most of the 50 acres is located on a hillside and it is too steep to build on. There could possibly be one more building site. However, he stated that he planned to clear the area for a hay field.

Ann Mary Dussault asked if it was too steep to build on, how could Mr. Sandstrom put crops on the property?

Robert Sandstrom explained that the County road splits the property. The building sites will be on one side of the property, and a mountain is on the other. The remainder of the property is steep.

MAY 11, 1994 (CONT.)

Barbara Evans explained that the law requires the Board of County Commissioners to determine whether or not an exemption to the Certificate of Survey process is being used to evade the Montana Subdivision and Platting Act. If an applicant actually wants to give a piece of land to their children, the law allows for this. If this method of splitting land is used to subdivide land, this is against the law.

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

Barbara Evans moved and Fern Hart seconded the motion to approve the request by Robert and Laura Sandstrom for three family transfer exemptions for Lot 5 and the SE1/4 NE1/4 of Section 8, T14N R22W, based on the finding that the request does not attempt to evade the Subdivision and Platting Act and contingent upon the transfer of the deeds to the family members. The motion carried on a vote of 3-0.

HEARING CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER - AILPORT- TRACT 1-A OF COS 3904

Kathy Smith, Paralegal for the Attorney's Office, explained that Thomas and Jeanette Ailport submitted a request for two family transfer exemptions for Tract 1-A of COS 3904. This is a 9.64 acre parcel and Mr. And Mrs. Ailport propose to transfer two 1 acre parcels to their children, Glen Robert Ailport and Marcia Ann Ailport.

The history of the parcel is as follows: COS 3374 was filed in 1986 using a security interest exemption. COS 3438 was filed in 1987 using an occasional sale exemption creating a 2 acre parcel with a parcel greater than 20 acres as a remainder. This parcel was then subdivided into Rainbow Estates in 1989 and Rainbow Estates Phase Two in 1991. The subject parcel is a remainder parcel when Rainbow Estates Phase Two was created. It is not part of the subdivision.

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

The hearing was opened to public comment.

Jeanette Ailport explained that she and her husband wish to give one piece of land to each of their children.

A discussion ensued relative to the Security Interest exemption. The exemption was used to satisfy a requirement from a bank.

Jeanette Ailport said they needed to get a lien on their home, but the bank only wanted five acres. Their home at the time sat on 26 acres. When the lien was satisfied with the bank, they did a boundary relocation to transfer three acres from the five acre parcel to the 21 acre parcel, leaving the home on a two acre parcel.

Colleen Dowdall, Deputy County Attorney, explained that the County would have required replacing the security interest exemption with a use of another exemption. It appears that this was the occasional sale.

Jeanette Ailport explained that the subdivision was done on the remainder.

Colleen Dowdall asked if there were any restrictions placed on the remainder?

Kathy Smith explained that the subdivision, Rainbow Acres, was subdivided in two phases.

Barbara Evans asked why Rainbow Acres No. 2 was denied on the first submittal, but was approved on the second?

Jeanette Ailport said the fire department required tree thinning, along with the installation of a water tank.

Jeff Erickson, Marcia Ailport's fiancee, said they need the land to build on. They will have to have the land in their own name in order to get financing from the bank.

Ann Mary Dussault asked about the remainder of the property and what is normally allowed with a remainder after a subdivision occurs?

Colleen Dowdall said normally, when a subdivision request comes through, the County requires that the developers plat their entire ownership or provide a plan of what they intend to do with the remaining ownership. The developer either has to show what they plan to do with the land, or they agree not to develop it. She said she wondered if there were any restrictions placed on the remainder at the time of plat approval.

Jeanette Ailport said when they did the occasional sale, she informed the staff what they intended to do with remainder at that time.

MAY 11, 1994 (CONT.)

Colleen Dowdall said if the Board approved the request, she suggested that it be contingent upon a review of the approval of the two subdivisions to determine if there were restrictions.

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

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request by Thomas and Jeanette Ailport for two family transfer exemptions for Tract 1-A of COS 3904, based on the finding that the request does not attempt to evade the Subdivision and Platting Act and contingent upon the transfer of deeds to the family members and upon investigation of the approval of the two subdivision to determine whether restrictions were placed on the property in question. The motion carried on a vote of 3-0.

HEARING CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER - DOUGHERTY

Kathy Smith, paralegal for the Attorney's Office, explained that Mary Jane Dougherty submitted a request for a family transfer exemption for a parcel of land located in Sections 18 and 19, T14N R19W and Sections 13 and 24, T14N R20W. This is an approximately 900 acre parcel and Mrs. Dougherty proposed to transfer 40 acres to her son, Charles G. Dougherty.

The history of the parcel is as follows: Mrs. Dougherty purchased the property in 1938. It has always been used as pasture land. COS 988 was filed in 1976 using a boundary relocation exemption.

According to the records kept by the Missoula County Surveyor's Office, the applicant has used exemptions to the Subdivision and Platting Act as described above and a boundary relocation in 1978 and 1979; two family transfer exemptions in 1979 to the applicant's daughters; and a creation of a parcel greater than 20 acres in size in 1980 and 1981.

The hearing was opened to public comment.

Chuck Dougherty explained that he intends to move back to Missoula to live. His mother will deed the property to him. He intends to build a log home on the property. The 40 acre parcel will comply with the one unit per forty acres in the Comp Plan.

A discussion ensued relative to the designation of one home per forty acres in the Comp Plan. Other areas around this property are more dense because either the Comp Plan may designate that area as such or the land could have been divided by use of Certificate of Survey. While Mrs. Dougherty is not limited with respect to the amount of land she can give her son, the building permit process would inquire into the zoning or Comp Plan designation. The applicant would have to comply at this time or come back to the Commissioners for a variance. There won't be a problem if the applicant gives her son 40 acres.

There being no further comment, the hearing was closed.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request by Mary Jane Dougherty for a family transfer exemption for a parcel of land located in Sections 18 and 19, T14N, R19W and Sections 13 and 24, T14N R20W, based on the finding that the request does not appear to attempt to evade the Montana Subdivision and Platting Act and contingent upon the transfer of the deeds to the family member. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 4:05 p.m.

MAY 12, 1994

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

DAILY ADMINISTRATIVE MEETING

The minutes of the daily administrative meeting are on file in the Commissioner's Office.

MAY 13, 1994

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

Indemnity Bond

Chair Fern Hart examined, approved and ordered filed an Indemnity Bond naming Cenex Supply as principal for warrant #1063, dated March 5, 1994, issued on the Greenough-Potomac Fire Department fund in the amount of $515.49 now unable to be found.

MAY 13, 1994 (CONT.)

Indemnity Bond

Chair Fern Hart examined, approved and ordered filed an Indemnity Bond naming Missoula Electric Coop, Inc. as principal for warrant #1060, dated March 5, 1994, issued on the Greenough-Potomac Fire Department fund in the amount of $25.97 now unable to be found.

Deed Restriction Agreement and Subordinate Deed of Trust

Chair Hart signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with downpayment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

> Perri Knize, in the amount of $20,000.00, for the property at 1640 South 12th West in Missoula, dated May 9, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Vickie M. Zeier
Clerk & Recorder

Fern Hart, Chair
Board of County Commissioners

MAY 16,1994

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

DAILY ADMINISTRATIVE MEETING

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

Plat

The Board of County Commissioners signed the Plat for Windy Hill Estates, a subdivision plat of Tract 2, COS No. 4279, located in the NE1/4, Section 15, T13N, R20W, PMM, a total net and gross area of 4.77 acres, with the owners of record being Greg and Debra Bauer.

Certificate of Survey

The Board of County Commissioners signed Certificate of Survey No. 3416 for the purpose of a boundary relocation, family transfer and agricultural covenant for owners, Philip D. and Robin Tawney, (Tracts 1 and 2 - parcels created by boundary relocation; Tract 2 - subject to agricultural covenant; Tract 3 - remainder; and Tract 4 - parcel created for transfer to their son).

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and the Missoula All-Maggots Rugby Football Club for the development of a rugby field at the Fort Missoula Recreation Complex and for the construction of a community center adjacent to the Rugby Park, as per the items and terms set forth, and shall be in effect for a period of twenty-five years, with the right to renew for subsequent twenty-five (25) year periods.

Lease Agreement

The Board of County Commissioners signed a Lease Agreement between Missoula County and Hellgate Post #27, Inc., American Legion Department of Montana, whereby the County will lease a parcel of land located in the E 1/2 of Section 25, T. 13 N., R. 20 W., PMM, Missoula County, for the purpose of operating and maintaining an American Legion League Baseball Complex, as per the terms and conditions set forth, for a period of ten years, with the rent being $1.00 and other good and valuable consideration.

Grant Agreement

Chair Hart signed Grant Agreement (Number MDA 94-09) between the Missoula County Extension Service and the Montana Department of Agriculture for the purpose of working with the bio-control research community to focus on priority projects and facilitate the process of bringing biological weed control technologies to County Weed Control Districts through a concerted effort of the Montana Weed Control Association Biological Weed Control Coordinating Committee and the Montana Department of Agriculture, as per the items set forth, to be funded by a $12,000 grant from the Noxious Weed Trust Fund, effective

MAY 16, 1994 (CONT.)

through June 30, 1995. The Agreement was returned to Jerry Marks at the County Extension Office for further handling.

Commitment Agreements

Chair Hart signed Commitment Agreements (2) for the Wastewater Treatment Works Revolving Fund Program between Missoula County and the Department of Natural Resources and Conservation of the State of Montana for the Linda Vista Project - RSID #8452, with the principal amount of the loan not to exceed $241,000.00; and for the Linda Vista Project - RSID #8453, with the principal amount of the loan not to exceed $2,022,000.00. The Agreements were returned to John DeVore, Administrative Officer, for forwarding to DNRC.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MAY 17, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Plat

The Board of County Commissioners signed the Plat for Mountain Acres No. 2, Lots 9A and 9B, a two lot summary subdivision of Lot 9, Mountain Acres No. 2, located in the SW1/4 of Section 36, T13N, R18W, PMM, with the owner and developer of record being Wayne A. Martin.

Employment Agreement

The Board of County Commissioners signed an Employment Agreement, dated May 16, 1994, between the Missoula Planning Policy Committee and Janet Stevens for the purpose of employing Janet Stevens as the Interim Director of the Office of Community Development, as per the duties and responsibilities set forth, for a period of one year through May 12, 1995, with a salary of $39,000.00 payable according to the schedule applied to other Missoula County employees for the term of this Agreement.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MAY 18,1994

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

DAILY ADMINISTRATIVE MEETING

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

Plat and Subdivision Improvements Agreement and Guarantee

The Board of County Commissioners signed the Plat for Linda Vista Seventh Supplement - Phase 4, a rural residential subdivision located in the SW1/4 and SE1/4 of Section 12, T12N, R20W, PMM, Missoula County, a total area of 12.03 acres, with the owners and developers of record being the Lloyd A. Twite Family Partnership. The Commissioners also signed a Subdivision Improvements Agreement and Guarantee for the improvements which remain to be completed in the above subdivision, namely the paving of the streets at an estimated cost of $15,000.00, and are to be completed no later than two years from the date of the final plat approval, guaranteed by a Montana Trust Indenture previously recorded.

Contract

The Board of County Commissioners signed a Contract between the Missoula County Weed Department and Nitro Green of Helena, the lowest and best bidder for State Highway weed spraying, as per the terms set forth, for a total payment of $15,270.00, and is to be completed within a period of 37 consecutive calendar days from the date of the Contract. The Contract was returned to Doreen Culver, Bidding Officer, for further handling.

MAY 18, 1994 (CONT.)

Contract

The Board of County Commissioners signed a Contract between Missoula County Larchmont Golf Course and JTL Inc., dba Western Materials, for the construction, installation, and completion of paving the parking lot at Larchmont Golf Course, as per the terms set forth, for a total payment of $17,949.40. The Contract was returned to Doreen Culver, Bidding Officer, for further handling.

Right-of-Way Agreement

The Board of County Commissioners signed a Right-of-Way Agreement between Missoula County and Robert J. and Helen F. Rangitsch, who agree to grant to the County a perpetual easement for public road and all other public purposes (Humble Road) as shown on the Exhibit attached to the Agreement (on file in the Recording Office), as per the items and terms set forth in the Agreement.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

PRESENTATION TO THE COUNTY: CITY-COUNTY CHALLENGE "TRY ANOTHER WAY DAY"

Sharyn Solum, Administrative Assistant, explained that in conjunction with Bike/Walk Week and "Try Another Way Day" the Try Another Way Day committee had a challenge with the City and County employees to try another way to walk or carpool or ride the bus. The committee obtained prizes for the three top departments. There were food prizes from Albertsons, Safeway and TCBY. The County won that challenge. The County had 20% of the employees who either carpooled, walked, biked, etc. to work. The City had 18.2% of its employees who participated. These numbers are significant. The committee's goal was to reach 20%. The members of the Try Another Way Day committee were Ken Kailey, Road; Ken Anderson, Environmental Health; Pat Thaggard, Clerk of Court; Sharon Siweck, Accounting; Carol Kagan, Assessor; and herself.

She thanked the Commissioners for their support and thanked them in advance of their ongoing support of two projects such as obtaining bicycles for the motor pool and to maintain a database for carpooling. Also, Ken Anderson is working on a survey compiled by the committee which will be shared with Mountain Line, the County and the employees.

She presented the County with a donated traveling trophy. The committee hopes to continue the challenge.

Ann Mary Dussault explained that Sharyn Solum was her chief navigator during the Mountain Goat Car/Bike Challenge on Friday, May 13th. She said they spent most of the time in the car yelling at each other in an effort to find the way. The bike pulled into Montana Radiology about one hour before they did.

BID AWARD: CONSTRUCTION BIDS - RSID NO. 8452 & 8453 - LINDA VISTA SEWER PROJECTS

Information provided by Jesse Sattley, RSID Coordinator, explained that the following construction bids were received for the Linda Vista Sewer project for RSID #8452:

Johnson Bros. Contracting	$ 160,409.00
Green Diamond Excavating	$ 156,081.00
4G Plumbing & Heating	$ 118,774.84
PEC, Inc.	$ 168,841.00
Heavy Civil, Inc.	$ 186,550.00
L. S. Jensen & Sons	$ 201,733.69
Van Dyke Construction	$ 265,456.00
Casper Magera	$ 158,676.25

The following bids were received for the Linda Vista Sewer project for RSID #8453:

Ascorp	$1,399,958.55
Sharbono Construction	$1,116,181.00
L. S. Jenson & Sons	$1,179,009.83
Van Dyke Construction	$1,226,942.00
Casper Magera	$1,260,081.00

The staff recommended that the bids for RSID #'s 8452 and 8453 be awarded to Sharbono Construction and 4G's respectively, as they were determined to be the lowest and most responsive bidders. These bids have

MAY 18, 1994 (CONT.)

been reviewed by the Water Quality Bureau, Department of Natural Resources, and the Community Development Block Grant Program as well as by the City of Missoula, the project engineer, County Attorney's Office and have been found to be in compliance with both statute and program compliance of the various financial partners to the project. Therefore, staff recommended the award of the Linda Vista Sewer Bids to Sharbono Construction for RSID No. 8453 in the amount of $1,116,181.00 and 4G's Plumbing & Heating for RSID No. 8452 in the amount of $118,774.84.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the construction bid for RSID No. 8452 to 4G's Plumbing & Heating in the amount of $118,774.84, and to Sharbono Construction for RSID No. 8453 in the amount of $1,116,181.00, for the Linda Vista Sewer projects, as the lowest and most responsive bidders, based on the recommendation of the staff. The motion carried on a vote of 3-0.

BID AWARD: CONSTRUCTION BIDS & BOND BIDS FOR RSID NO. 8457 - CONSTRUCTION OF ROAD IMPROVEMENTS TO PORTIONS OF HUMBLE AND SUNDOWN ROAD

Information provided by Jesse Sattley, RSID Coordinator, explained that the following construction bids for RSID No. 8457 for Humble and Sundown Road street improvements were received:

JTL Group/Western Material	$92,554.00
Jensen Paving	$94,957.80

The following bids were received for Bond sale for RSID No. 8457:

R.J. Rangitsch	6.7%
Harry R. Zitto	7.839%

The staff recommended that the bid awards be postponed for one week for further review.

Barbara Evans moved and Ann Mary Dussault seconded the motion to postpone the bid award for the construction and bond bids for RSID No. 8457 for Humble and Sundown Road street improvements until the Public Meeting on May 25, 1994. The motion carried on a vote of 3-0.

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

MAY 19,1994

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

Audit List

Commissioners Dussault and Hart signed the Audit List, dated May 18, 1994, pages 4-31, with a grand total of $115,089.94. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Budget Transfer

The Board of County Commissioners approved and signed the following Budget Transfer for the Health Department and adopted it as part of the FY'94 budget:

> No. 94012, a request to transfer $1,320 from the Contingency account to the Vehicle Maintenance ($1,000) and Gas & Oil ($320) accounts for the purpose of providing matching funds required by the SDHES for the Deicer Study contract.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between the Missoula County Office of Community Development and Erica L. Brown, an independent contractor, for the purpose of taking and transcribing the minutes of the regular and special meetings of the Missoula Consolidated Planning Board, as per the terms and conditions set forth, commencing May 17, 1994, with payment as outlined in the Contract. The Contract was returned to the Office of Community Development for further handling.

Management Agreement

The Board of County Commissioners signed a Management Agreement between Missoula County and Merilynn J. Foss, dba Foss Management Service, for the purpose of renting, leasing, operating and managing

MAY 19, 1994 (CONT.)

the West Pine property purchased by the County (described in the Agreement), as per the terms and conditions set forth, with compensation being 10% of the rents collected plus actual costs of advertising the vacant units.

Other items included:

the Commissioners agreed to send letters to the current members of the Museum Board of Trustees whose terms are expiring, asking them to continue serving until December 31, 1994, as the Art Museum is in a state of transition at this time.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MAY 20, 1994

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

Right-of-Way Purchase Agreement

The Board of County Commissioners signed a Right-of-Way Purchase Agreement between Missoula County and Jess and Brent Mickelson for the sale and purchase of a right-of-way over certain real property in Missoula County, whereby the County agrees to purchase an easement covering approximately 1.6 acres crossing portions of Lots 9A, 9B, and 9C of Certificate of Survey 1973, as per the terms and conditions set forth, for a total payment of $11,520.00.

MAY 21, 1994

Saturday morning, Commissioners Hart and Dussault attended a breakfast at the Library honoring the Library volunteers. In the afternoon, all three Commissioners attended a farewell party held at the Fairgrounds for Orville Daniels, who retired as supervisor of the Lolo National Forest.

Vickie M. Zeier
Clerk & Recorder

Fern Hart, Chair
Board of County Commissioners

MAY 23,1994

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 94-056

The Board of County Commissioners signed Resolution No. 94-056, a resolution approving the request for annexation to the Frenchtown Rural Fire District of the parcel of land described as Tract 1 of COS 3942, further described as a tract of ground located in the SE1/4 of Section 6, T14N, R22W, PMM, Missoula County, and assessing for said annexation a fire district levy along with other property already a part of the Frenchtown Rural Fire District.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #10, pay date May 13, 1994, with a total Missoula County Payroll of $474,068.59. The Transmittal Sheet was returned to the Auditor's Office.

Resolution No. 94-057

Chair Hart signed Resolution No. 94-057, a resolution relating to the Board of Investments' INTERCAP Revolving Program, approving and authorizing participation therein and approving execution of the commitment agreement for a loan in the amount of $458,937.00 to purchase road graders and to pay origination fees, as per the terms set forth. The Resolution was returned to John DeVore, Administrative Officer, for further handling.

MAY 23, 1994 (CONT.)

Block Grant Contract

Chair Hart signed a Community Development Block Grant Contract, #MT-CDBG-93PF-11, between Missoula County/Linda Vista and the State of Montana Department of Commerce for the purpose of providing funding for project activities approved by the Department under the Montana Community Development Block Grant Program (CDBG) for FY 1993, namely funding to create a RSID for the purpose of installing public sewer which, upon completion, will be owned and operated by the City of Missoula; CDBG funds will be used specifically to provide assistance for eligible households for their share of the RSID assessments, on-site construction costs and hook-up fees, assistance to eligible homeowners for on-site sewer connection, and the administration of this contract, as per the terms and conditions set forth, effective January 14, 1994, for a total amount not to exceed $290,000.00. The contract was returned to Cindy Wulfekuhle in Community Development Programs for further handling.

Construction Agreement

Chair Hart signed a Construction Agreement, dated May 5, 1994, between Missoula County and Montana Power Company for the purpose of installing, operating, and maintaining underground electrical service to seven sewer lift pumps for the Linda Vista Sewer Projects, RSID No. 8452 and RSID No. 8453, with the County agreeing to make a contribution in aid of construction in the sum of $7,272.00, as per the terms and conditions set forth. The Agreement was returned to John DeVore, Administrative Officer, for further handling.

Replacement Bond

Chair hart signed Bond #19 in the amount of $20,000.00 for the County of Missoula, Medical Office Building Revenue Bond Series 1978, 7.40%, due 6/1/07 (Missoula Community Hospital Project), to replace Bond #18. The Bond was returned to First Interstate Bank.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MAY 24, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Dolly Stewart of Lolo for the purpose of locating a new supply well for RSID 901 on property owned by Dolly Stewart, as per the terms and conditions set forth, with guaranteed hookups as per the schedule set forth.

Lease Agreement

The Board of County Commissioners signed a Lease Agreement, dated April 1, 1994, between Missoula County and Plum Creek Timber Company who will lease a tract of land located in a portion of the NE 1/4 of Section 2, T. 14 N., R. 15 W., PMM, Missoula County to be used for a radio transmission site, as per the terms and conditions set forth, commencing April 1, 1994, through March 31, 1995, unless renewed for an additional one-year term, for an annual rental of $400.00. The Lease Agreement was returned to John DeVore, Administrative Officer, for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

MAY 25,1994

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

Audit List

Commissioners Dussault and Hart signed the Audit List, dated May 24, 1994, pages 4-39, with a grand total of $133,259.41. The Audit List was returned to the Accounting Department.

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Lockup USA as principal for warrant #254600, dated December 6, 1993, issued on the General Fund (Sheriff's Dept.) in the amount of $795.00 now unable to be found.

Indemnity Bond

Chair Hart examined, approved and ordered filed an Indemnity Bond naming Ellen M. Imboden as principal for warrant #222262, dated April 29, 1994, issued on the Missoula County Payroll fund in the amount of $41.86 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Addendum to Contract

Chair Hart signed an Addendum to the Standard Audit Contract between Missoula County and Elmore & Associates, P.C., applicable to Fiscal Years ending June 30, 1994 and 1995, as per the items set forth in the Addendum, with all other provisions of the Standard Audit Contract dated April 6, 1993, shall remain in effect for the fiscal years ending June 30, 1994 and 1995. The Addendum was returned to Jane Ellis, Fiscal Officer, for further signatures and handling.

Other items included:

a) the Commissioners authorized Vickie Zeier, Clerk & Recorder/Treasurer to call in, as temporary employees, such additional staff as may be required to complete the accurate processing of the petitions in a timely manner, as well as to incur overtime expense for regular employees if required; and

b) the Commissioners approved a request from Sam Yewusiak, Manager of the Western Montana Fair, to spend one portion of the Fair's proposed technical equipment line item for the FY'95 budget early, namely to spend $6,300 for cash registers to be used in a new selling procedure at the gates, as these must be ordered and their setup and the training of the gate workers needs to be done before the Fair.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

PROCLAMATION: ORVILLE DANIELS DAY

WHEREAS, Orville Daniels has retired after serving 20 years with the Lolo National Forest; and

WHEREAS, in his tenure as Forest Supervisor of the Lolo National Forest, Orville has demonstrated wise management and excellent stewardship of the Lolo National Forest; and

WHEREAS, Orville Daniels is held in high regard and esteem not only by his peers, but by the business community, government, and human service organizations; and

WHEREAS, Orville Daniels has always been cognizant of a broader perspective, and has a deep appreciation and a clear view of how things ought to be, and how to get there; and

WHEREAS, Orville Daniels has promised to stay active in resource management, and spend more time with his wife, Olleke, his sons, Steve and Mike, and his three grandchildren, Malcom, Peter and Aislyn; and

WHEREAS, Orville will do all of this with his usual sense of humor and love for his community and the land he so carefully tended for us.

NOW THEREFORE, the Board of County Commissioners do hereby proclaim Wednesday, May 25, 1994 as ORVILLE DANIELS DAY in Missoula County, and invite all citizens, wherever they see Orville, to wish him well as he takes to a new trail.

MAY 25, 1994 (CONT.)

Ann Mary Dussault moved and Barbara Evans seconded the motion to adopt the Proclamation proclaiming May 25, 1994 as Orville Daniels Day in Missoula County. The motion carried on a vote of 3-0.

Barbara Evans, on behalf of the Board of County Commissioners, presented Orville Daniels with a framed Monte Dolack print symbolic of Missoula. She said there are words that are attributable to Mr. Daniels, such as kind, generous, tough. She said Missoula County will miss him, but will keep him very busy.

BID AWARD: DRILLING & INSTALLING MONITORING WELLS IN THE MISSOULA VALLEY - WATER QUALITY DISTRICT

Fern Hart explained from information received from Peter Neilsen, Environmental Health, that bids were received for the installation of monitoring wells in the Missoula valley as follows:

Ed Boland Construction, Inc.	Maximum Expenditures	$66,600.00
Western Water Works	Maximum Expenditures	$46,696.00

The Missoula Valley Water Quality District has reviewed the bids and recommended that the bid of Western Water Works of Kalispell at a maximum expenditure of $46,696.00 be accepted with the requirements that a certificate of insurance be filed with the Missoula County Risk Manager, a contract between the Missoula Valley Water Quality District and Western Water Works be drafted, and all appropriate bonds be secured and deposited with Missoula County.

Michael Sehestedt, Deputy County Attorney, explained that the bid specifications did not require the bidder to show they were licensed as a public contractor. It required that they show they were licensed as a water well driller with a water well endorsement. The low bidder, Western Water Works apparently is not licensed as a public contractor. The County does not have the legal ability to accept their bid. He recommended that the Health Department re-advertise with the correct specifications.

Barbara Evans moved and Ann Mary Dussault seconded the motion to reject all bids and re-advertise with the appropriate specifications. The motion carried on a vote of 3-0.

BID AWARD: CONSTRUCTION BIDS & BOND BIDS - RSID NO. 8457 - CONSTRUCTION OF ROAD IMPROVEMENTS TO PORTIONS OF HUMBLE AND SUNDOWN ROADS

The following bids were received for construction for RSID No. 8457 for the Humble and Sundown Road street improvements:

JTL Group/Western Materials	$92,554.00
Jensen Paving	$94,957.80

The following bids were received for the Bond sale for RSID No. 8457:

RJ Rangitsch	6.7%
Harry R. Zitto	7.839%

The staff recommended that the construction bid be awarded to JTL Group/Western Materials in the amount of $92,554.00 and the bond bid be awarded to RJ Rangitsch at 6.7% for RSID No. 8457 for the Humble and Sundown Road street improvements.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the construction bid to JTL Group/Western Materials in the amount of $92,554.00 and the bond bid to RJ Rangitsch at 6.7% for RSID No. 8457 for the Humble and Sundown Road street improvements. The motion carried on a vote of 3-0.

HEARING: HILLSDALE ESTATES- PRELIMINARY PLAT

Fern Hart explained that the developer requested that the preliminary plat for Hillsdale Estates be postponed until the June 8th Public Meeting.

HEARING - CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER - BENNETT - PARCEL A OF COS 1974

Kathy Smith, paralegal in the County Attorney's office, explained that Roger and Julia Bennett submitted a request for a family transfer exemption for Parcel A of COS 1974. This is a 38.57 acre parcel in the Ninemile area and Mr. And Mrs. Bennett propose to transfer one acre to their son, Guy Lee Bennett.

The history of the parcel is as follows: The parcel was created in 1979 by Ida Slemmons from Slemmons Ranch as a parcel greater than 20 acres in size. The Bennetts purchased the parcel in June, 1979.

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

The hearing was opened to public comment.

Ann Mary Dussault explained that the Commissioners must determine whether the request is an attempt to evade the Montana Subdivision and Platting Act. She asked if it was the applicants' intent to transfer the deeds?

Zane Sullivan, representing the Bennetts, explained that it was the applicants' intent to transfer the deeds to their son. The Bennetts are entering into a contract arrangement with their son for a specified dollar amount. This contract will be satisfied upon the completion of a construction loan. The son intends to build a single family structure on the property. The payment to the parents will be completed through the construction loan process. There will be a deed transfer at this time or before, depending upon what type of documents are used.

Colleen Dowdall, Deputy County Attorney, explained that if they do a Notice of Purchasers Interest, this evidence is the transfer for the contract.

Zane Sullivan stated that there is a paved road fronting the property. There is a road on both sides of the overall parcel of property, but the one acre lot fronts on a paved road at the present time.

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

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the family transfer exemption request by Roger and Julia Bennett to their son, Guy Lee Bennett, for property located in Parcel A of COS 1974, based on the finding that the request does not evade the Montana Subdivision and Platting Act and contingent upon the transfer of the deeds to the applicants' son. The motion carried on a vote of 3-0.

HEARING - CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER - JENSEN - LOT 5 OF COS 3611

Kathy Smith, paralegal for the Attorney's Office, explained that Mark Jensen submitted a request for a family transfer exemption for Lot 5 of COS 3611. This is a 20.06 acre parcel located up the Ninemile and Mr. Jensen proposes to transfer approximately 10 acres to his wife, Seana Jensen, for purposes of building a residence for her parents.

The history of the parcel is as follows: COS 1452 was filed in 1978 creating several parcels greater than 20 acres in size. COS 3611 was filed in February, 1988, reconfiguring the shape of the parcels and creating 10 parcels greater than 20 acres in size. Mr. Jensen purchased Lot 5 in November, 1988.

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

The hearing was opened to public comment.

Mark Jensen explained that he wishes to transfer the parcel to his wife, Seana Jensen. He said the approval of the request will allow them to come into compliance with the covenants on the property. According to the covenants, only one single family residence can be built on the parcel. The covenants allow the parcel to be split into a minimum of five acres. He said he intends to construct a home on this property. He said he and his wife are starting a family and wish to have the assistance of his wife's parents who currently live in Kalispell. He said in the long-run, they plan to transfer the deed to their children. The deed will be transferred to his wife, not her parents. He said he cannot get a construction loan until he splits his property. He and his wife live on the property and will build a home for Seana's parents. He said this is located by the Clark Fork River in the Nine Mile area. The parcel is located in a subdivision consisting of ten 20- acre parcels.

Barbara Evans said the Board recently passed riparian regulations which keep people from building within 50 feet of a river. She wondered if the applicant intended to build by the river?

Mark Jensen said this parcel is probably a quarter of a mile from the river. However, the existing home is on the river. He assured the Commissioners that he didn't use phosphate fertilizers, etc.

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

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request by Mark Jensen for a family transfer exemption to his wife, Seana Jensen, for Lot 5 of COS 3611, for approximately ten acres,

MAY 25, 1994 (CONT.)

based on the finding that the request does not attempt to evade the Montana Subdivision and Platting Act and contingent upon the transfer of the deeds to the family member. The motion carried on a vote of 3-0.

Ann Mary Dussault said her agreement with the motion was based upon Mr. Jensen's testimony that he would transfer the deeds to the 10 acre parcel to his wife, Seana. She said it was critical that the deeds remain with Seana. If there was an intent to transfer the deeds to the parents, this would constitute an evasion of the Subdivision and Platting Act.

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

MAY 26,1994

The Board of County Commissioners met in regular session; all three members were present. The Commissioners and the Rural Planning staff took an all-day field trip to the Seeley Lake-Condon area and met with various individuals and groups there.

MAY 27,1994

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

Vickie M. Zeier
Clerk & Recorder

Fern Hart, Chair
Board of County Commissioners

MAY 30, 1994

The Courthouse was closed for the Memorial Day holiday.

MAY 31,1994

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

DAILY ADMINISTRATIVE MEETING

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

Budget Transfers

The Board of County Commissioners approved and signed the following Budget Transfers and adopted them as part of the FY'94 budget:

1) No. 94013, a request from the Health Department to transfer $54,000.00 from the Capital - Construction ($50,000) and Contingency accounts - 442501 to the Capital - Construction ($50,000) and Contracted Services accounts - 442504 for better tracking of two year program by Department Head; and

2) No. 94014, a request from Financial Administration to transfer $5,000.00 from the Permanent Salaries account to the Justice Court #2 Overtime account for the purpose of covering overtime costs from disproportionate work load.

Resolution No. 94-060

The Board of County Commissioners signed Resolution No. 94-060, a resolution accepting an easement from Robert J. and Helen F. Rangitsch for public road and all other public purposes, located in a portion of the NE 1/4 of Section 35, T13N, R20W, PMM, Missoula County (Humble Road).

Contract

The Board of County Commissioners signed a Contract dated May 24, 1994, between the Missoula County Treasurer and lst Interstate Bank of Commerce for credit card processing service for the County Treasurer and Motor Vehicle Departments, as per the terms set forth and proposal attached to the Contract. The Contract was returned to Michelle Denman in the Treasurer's Office for further handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Joe Batt, an independent contractor, for planning, acquiring supplies, instruction and clean-up for classes

offered to the public by the Missoula Museum of the Arts, as per the terms set forth, commencing January 1, 1994, through December 30, 1994, at the rate of $10.00 per hour or $7.50 per hour when co-taught.

Modification of Agreement

Chair Hart signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences agree to modify the terms of the Agreement between them concerning the SFY94 WIC Program (DHES No. 340110) as per the items set forth. The Modification was forwarded to DHES in Helena.

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit, whereby the County agrees to permit Ysaura Hanley of 1200 Speedway in East Missoula to encroach upon a portion of County right-of-way located in the SE 1/4 of Section 13, T. 13 N., R. 19 W. and the encroachment shall be limited to the existing concrete block retaining wall, effective for a period not to exceed ten years, renewable at the option of the County, with Ysaura Hanley assuming all liability for any accident of any kind caused by this concrete block retaining wall.

Other items included:

1) the Commissioners approved the request from Hal Luttschwager, Risk Manager, to appoint Joyce Blatherwick as acting Risk Manager and Lorri Lane as Acting Insurance Specialist during his absence from June 23 through July 25, 1994; and

2) the Commissioners approved paying all moving expenses to relocate the new physician for the Partnership Health Clinic as this is customary in the health care industry, according to Jeanne Twohig, Director of PHC; however, it is an exception to County Personnel Policies (407.30) regarding moving expenses, which limits the amount of reimbursement to fifty percent of the actual cost of moving.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 1, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Contract

The Board of County Commissioners signed a Contract between Missoula County and 4G Plumbing and Heating, Inc., the lowest and best bidder for completion of sanitary sewer collection system improvements for a portion of southwest Missoula - Lower Miller Creek/Linda Vista Area (RSID Nos. 8452 and 8453), as per the terms set forth, for a total amount of $118,774.84. The Contract was returned to Jesse Sattley, RSID Coordinator, for further handling.

Other items included:

> the Commissioners approved a request from Ellen Leahy, Director of the City-County Health Department to hire a Computer Operations Specialist, a Public Health Nutritionist, a Secretary, and an Environmental Health Specialist, enhanced positions effective July 1st.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Barbara Evans and Ann Mary Dussault.

CONSIDERATION OF: KONA RAPIDS - SUMMARY PLAT - POSTPONED FROM MAY 4TH

Ron Ewart, Planner at the Office of Community Development, explained that Kona Rapids is a proposed single family residential subdivision of five (5) 1-acre tracts on 5.56 acres, with a 3.3-acre remainder parcel. A private road will serve three of the lots. The property is located in Section 8, Township 13 North, Range 20 West, at the southeast corner of Kona Ranch Road and Big Flat Road. Urfer Drive and Melody Lane, both County gravel roads, also border the property. The access points onto the main highways will be limited as much as possible for traffic safety. The land currently contains 2 residences, a garage/shop, and a pole structure. One of these existing residences will be on Lot 2, the other on the remainder parcel.

The area is zoned CRR-1, with an allowable density of up to 1 residential unit per acre. The Missoula County Comprehensive Plan, 1990 Update, recommends a designation of rural residential- one unit per 5 to 10 acres. The Clark Fork River is located about a half mile to the east, over which Kona Bridge passes. All of the lots will be served by individual water and sewer systems.

The Office of Community Development staff recommended that the summary plat of Kona Rapids be approved, subject to compliance with the following conditions:

1. Grading, drainage, erosion control, and street plans shall be approved by the County Surveyor. *Section 3-2, 3-4*

2. The following statement shall appear on the face of the plat:

> "Acceptance of a deed for a lot within this subdivision shall constitute assent of the of the lot owners to waive the right to protest a future RSID for any improvements to Kona Ranch Road, Big Flat Road, Melody Lane, and/or Urfer Drive, based on benefit, and may be used in lieu of their signatures on an RSID petition."
>
> *Section 3-2(10)*

3. The developer shall provide cash-in-lieu of park land into the County Park Fund as directed by the County Assessor. *Section 3-8(2)(D)*

4. The shared access for Lots 2, 3, and the remainder parcel is, by regulation, a private road. The road shall be located within a minimum 54-foot access and public utility easement, with a minimum 50-foot cul-de-sac bulb radius. The road shall be paved to a 20-foot width to a point past the driveway to Lot 3. The name of the road shall be approved by the County Surveyor and a standard street sign placed at the intersection by the developer. *Section 3-2(1)(I), 3-2(9), 3-2(2)(F), also variance request condition.*

5. The private road plans, to include plans for a fire apparatus turnaround, shall be approved by the Rural Fire Marshal. *Article 3-2(6)*

6. Lot 5 shall access Urfer Drive, or it shall share an access to Kona Ranch Road with Lot 4. In the latter case, the private driveway shall have an access and public utility easement width of 27 feet on each side of the common property line. *Section 3-2(1)(I), and comments of the County Surveyor.*

7. A 1-foot no-access strip shall parallel the property fronting Kona Ranch Road and Big Flat Road, with the exception of the one access on to Kona Ranch Road and the existing access on to Big Flat Road. *Section 3-2(10)*

8. The developer shall develop a road maintenance agreement to address maintenance of the private road. In addition, the following statement shall appear on the face of the plat:

> "The purchaser and/or owner of this lot or parcel understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owners or homeowner association and that the County of Missoula is in no way obligated until the roads are brought up to standards and accepted by the County of Missoula."
>
> *Section 3-2(1)(I)*

9. Melody Lane shall be paved 20 feet back from Big Flat Road at a width of 24 feet, Urfer Drive shall be paved 20 feet back at a width of 24 feet from Kona Ranch Road if Lot 5 accesses Urfer Drive, and the access to Lot 4 shall be paved 20 feet back from Kona Ranch Road at a minimum 12 feet wide. *Section 3-2(6); also variance request condition.*

10. The following statement shall appear on the face of the plat:

> Any future subdivision of the remainder parcel shall be subject to the environmental assessment and public hearing requirement as provided in the Missoula County Subdivision Regulations for major plats.
>
> *Section 4-3(D).*

11. A fee of $50 per lot shall be paid into the large diameter hose fund of the Missoula Rural Fire District. *Comments of the Rural Fire Marshal.*

12. The developer shall submit a map that shows the location of the corral and barn in relation to the Urfer Drive right-of-way. If there are encroachments, an encroachment permit shall be required or the removal of such encroachments shall be required. *Comments of the County Surveyor.*

He explained that the developer requested a variance to Section 3-2(5) of the Missoula County Subdivision Regulations which states that sidewalks and pedestrian walkways shall be provided and bikeways should be considered. Reasons for the request are 1) the nature of this subdivision and the area is rural and does not lend itself to sidewalks and the highways are wide enough to accommodate cars, bicycles, and pedestrians, 2) there are no other sidewalks or walkways to connect with, and 3) the lot owners will waive the right to protest an RSID for any improvements, which would include sidewalks, to the four surrounding streets, based on benefit. Staff recommends approval of this request.

The developer requested a variance to Section 3-2(1) which states that a private access lane serving three or more lots shall be paved to a minimum of 24 feet. Currently, two homes access the driveway. The County Surveyor recommends that Lot 3 also access this driveway. Section 3-2(10) states that whenever lots abut more than one street, access shall be provided on the street with the lowest classification. This will cause the driveway to become a private road which triggers the private road requirements. If Lot 3 were to access directly on to Big Flat Road, then the existing driveway would serve only two lots and no paving would be required. Section 3-2(1)(4) states that unpaved roads within the "Air Stagnation Zone" shall not serve more than 3 single family dwellings. This private road will serve 3 dwellings. Staff recommends approval of the variance request if the following are incorporated into the conditions as they are stated in this report, which is that: 1) the road is paved to a 20-foot width to a point just past the driveway access to Lot 3, 2) the private access easement, to include the turnaround bulb, is brought to standard, and 3) the Rural Fire Chief approve the private road plans, to include the turnaround.

The developer requested a variance to Section 3-2(10) which states that off-site access roads that are 500 feet in length or less shall be meet the paving standards. The regulations would require the street be paved from the existing paved road to the driveway access of the Lot. The County Surveyor recommends that Lot 1 access on to Melody Lane, which is the street of lowest classification. If Lot 1 were to access directly on to Big Flat Road, then only the first 20 feet of the access to Lot 1 would be required to be paved, as per Section 3-2(6). The County Surveyor recommends that Lot 5 access either to Urfer Drive or that it share an access with Lot 4 on to Kona Ranch Road. Staff recommends that the request to grant a paving variance for Lot 1 on Melody Lane and Lot 5 on Urfer Drive, if the following are incorporated into the conditions as they are stated in this report, which is that: 1) the lots waive the right to protest an RSID for any improvements to Melody Lane or Urfer Drive, based on benefit, and 2) that Melody Lane is paved

to 20 feet back from Big Flat Road, and Urfer Drive paved to 20 feet back from Kona Ranch Road if Lot 5 accesses to Urfer Drive.

He explained that they were basically trying to limit the number of access points onto the highway. In this situation, there would only be on more access onto Kona Road. There is an existing access onto Big Flat Road. There will either be one access onto Urfer or there will be no access onto Urfer depending upon if Lot 4 and 5, or 3 and 4 want to share their access. The end result of the variance would be one access onto Urfer, a gravel road, one access onto Melody Lane, a gravel road, and one access onto Kona Road. This would keep the new residents from driving on unpaved roads.

Andy Fisher, Eli & Associates, agreed with the staff report. He explained the road situation in the area: Big Flat Road is an existing paved road; Kona Ranch Road is an existing paved road; Melody Lane is an existing gravel road in good shape; and Urfer Drive is an existing gravel road in bad shape. All of the roads are County roads. There is an existing driveway that serves Lot 2 and the remainder. The developer proposed for Lot 1 to access Melody Lane. Lot 2 and the remainder will continue to use the existing driveway. He asked that Lots 3, 4 and 5 be kept open for flexibility. They suggested one new approach onto Kona Ranch Road either to serve Lot 3 and 4 or Lot 4 and 5 or Lot 4. If only Lot 4 accesses Kona Ranch Road, Lot 3 will use the existing approach with Lot 2 and the reminder. He said the driveway approach would be paved according to the variance request.

Ron Ewart said a private road is subject to the same requirements as a County road. It is required to be 24 feet for the entire road.

Andy Fisher said if Lots 3 and 4 were to use the same access, then only 20 feet of the driveway would have to be paved. If a third driveway is added, then the road would become a private road subject to the County's standards.

He said another option would be to have Lot 5 access onto Urfer Drive which would be improved to the driveway.

Colleen Dowdall asked why Lot 3 would use the same access as Lot 2 and the reminder since it is adjacent to the driveway? The driveway's proximity to Lot 3 makes it likely that it would use the driveway. She said she was concerned that the impact on Kona Ranch Road would actually be a three lot impact rather than a two lot.

Andy Fisher said the approach on Lots 4 and 5 could be shared; Lot 3 could use the existing driveway. He explained that the various options were included because it depends and is based upon how people locate their homes.

Colleen Dowdall expressed concern about the remainder. She wondered if there was a legal description for the remainder?

Andy Fisher said there won't be once it is created.

Colleen Dowdall asked how the owners could transfer their property in the future without a legal description? This is in all actuality a six lot subdivision. By calling the sixth lot a remainder, they are creating a parcel called a remainder that does not have a legal description. There is no way the people can transfer their property without going through subdivision review for that one lot.

Andy Fisher commented that it has been done before.

Ann Mary Dussault asked if Condition #10 addressed Colleen's concerns?

Colleen Dowdall said in previous discussions they decided if the owners wanted two other building sites besides the existing home, they would have to go through major subdivision review minus the Planning Board review with an environmental assessment. She said this is a subdivision that should have come through major review because a parcel is being created.

Andy Fisher said this was addressed in the process long ago. This is not the first time it has come up.

Colleen Dowdall said the Subdivision Regulations state that when a remainder parcel is used, typically, the developer is phasing the project and will submit a development plan which included roads, lot configuration, etc. This subdivision does not provide this information.

Barbara Evans asked the owners, Mr. and Mrs. Wells, why they chose to leave a remainder instead of doing a six lot subdivision which would be reviewed at the same time?

Mr. Wells commented that they did not plan to subdivide the 3 acre lot. They pasture their horses on the ground.

Fern Hart said the Wells' live on a piece of ground for which there is no legal description.

A discussion ensued relative to the sixth lot and the solution to the problem One solution would be to go back through the subdivision process with a six lot subdivision review or the owners would have to come before the Commissioners to do a one lot subdivision in order to get a legal description for the remainder.

Andy Fisher explained that there are costs involved either way. If the Wells' were to do a six lot subdivision, they would have to do cash-in-lieu of park land.

Ron Ewart said cash-in-lieu of park land is required on a subdivision of three or more lots.

Colleen Dowdall clarified that Andy Fisher did not consider the 3.3 acres of remainder as part of the subdivision.

Fern Hart said the best advice that a surveyor could give the folks was that this method of subdividing is the most cost-effective. She wondered if the savings would be that much if they have to re-survey?

Andy Fisher stated he didn't know what the plans would look like in 5 or 10 years down the road. He said this is a decision on the part of the owners.

Fern Hart stated that she thought it was bad advice.

Barbara Evans suggested that the owners take a week to think about this. This is not the best choice for these people. If they came in with a 6 lot subdivision, the remainder parcel would have a legal description that could be sold or transferred. If the owners have to come back, any future subdivision would be subject to the environmental assessment and a public hearing before the Board of County Commissioners. They will have to pay to go through the whole process again if they choose to do something with their land.

Andy Fisher said if they do a 6 lot subdivision, they would have to go through the process again.

Ron Ewart said if the subdivision was required to go through the Planning Board, the staff would have to notify adjacent property owners along with a legal ad in the Missoulian. This couldn't be accomplished in a week. The whole process would have to be initiated.

Ann Mary Dussault said there are two issues. The first is this appropriately before the Board of County Commissioners. If the answer is yes, then the second question is, after this discussion, do the Wells' want to proceed? If the answer is yes, then the lack of a legal description to this property is the property owner's problem. If they knowingly proceed with this, then it is their choice and the County is not responsible. She said Colleen Dowdall raised the question as to whether or not this subdivision is truly a 6 lot subdivision. If this is a six lot subdivision, it should be taken before the Planning Board. She said it may be that the County needs to clarify the regulations.

Colleen Dowdall said the County has done remainder parcels in the past. The regulations require the developer to show how they intend to develop the parcel whether it be a phasing project, etc. She said it may be that not having a property description is not a big deal because the remainder will be developed and, in the future, there will be property description.

Ann Mary Dussault said the tricky issue that remains is that a six lot subdivision requires a major subdivision review.

Andy Fisher stated that the question remains as to whether there is a reminder.

Mr. Wells said they originally planned two lots; the ten acres was used as two lots for years. The remainder would be a part of one of the two lots. He said there should be a legal description from the original lot. There were originally two legal descriptions.

Colleen Dowdall said the plat shows that the remainder is part of both the legal descriptions. The total effect is actually four lots. She said the County has done remainders in the past and it is properly before the Commissioners. The plat doesn't address the issue of future development. The developers should either say there is no future development or provide a development proposal.

Andy Fisher stated that Condition #10 addressed this.

Fern Hart said that Colleen Dowdall said that a legal description was a problem.

Andy Fisher said there is a possibility of a boundary relocation which would give the remainder a legal description.

Barbara Evans asked if this would change the process? Would the hearing have to be re-advertised?

Colleen Dowdall said it would change the process, but the Commissioners could approve the summary plat as it is. The developers could go through the boundary relocation process. The Commissioners could condition plat approval upon a boundary relocation. Before the developers could file the plat, they would have to do a boundary relocation. However, the boundary relocation could also be done on the same plat. The relocation would not have to go through the Attorney's Office.

A discussion ensued relative to the plat approval. A further condition could be added that required a boundary relocation which would designate the remainder parcel.

Barbara Evans referred to Condition #8. The County is not obligated or responsible for private roads and does not take on the maintenance of such.

Horace Brown said a statement is placed on the plat that the purchaser and owner of the subdivision understand and agree that the private road construction, maintenance and snow removal would be the obligation of the homeowners or homeowners association.

Ann Mary Dussault clarified Condition #1 to include "on County roads."

Colleen Dowdall stated that the new subdivision regulations require that all road improvements shall be in accordance with County street and road standards. This is a change in the subdivision regulations. The County Surveyor currently approves plans for the roads. The County Surveyor does not approve plans for private roads.

Ann Mary Dussault said if people assume the County Surveyor approves the plans on private roads, then they assume the Surveyor approved the plans and that the road meets the standards for County roads.

Colleen Dowdall said the regulations require that the Surveyor approve the plans, but not the road.

Ron Ewart read new language from the regulations, "the County is in no way obligated to perform such maintenance or upkeep."

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the Summary Plat of Kona Rapids based on the findings of fact and subject to the following conditions:

1. Grading, drainage, erosion control, and street plans shall be approved by the County Surveyor.

2. The following statement shall appear on the face of the plat:

> "Acceptance of a deed for a lot within this subdivision shall constitute assent of the of the lot owners to waive the right to protest a future RSID for any improvements to Kona Ranch Road, Big Flat Road, Melody Lane, and/or Urfer Drive, based on benefit, and may be used in lieu of their signatures on an RSID petition."

3. The developer shall provide cash-in-lieu of park land into the County Park Fund as directed by the County Assessor.

4. The shared access for Lots 2, 3, and the remainder parcel is, by regulation, a private road. The road shall be located within a minimum 54-foot access and public utility easement, with a minimum 50-foot cul-de-sac bulb radius. The road shall be paved to a 20-foot width to a point past the driveway to Lot 3. The name of the road shall be approved by the County Surveyor and a standard street sign placed at the intersection by the developer.

5. The private road plans, to include plans for a fire apparatus turnaround, shall be approved by the Rural Fire Marshal.

6. Lot 5 shall access Urfer Drive, or it shall share an access to Kona Ranch Road with Lot 4. In the latter case, the private driveway shall have an access and public utility easement width of 27 feet on each side of the common property line.

7. A 1-foot no-access strip shall parallel the property fronting Kona Ranch Road and Big Flat Road, with the exception of the one access on to Kona Ranch Road and the existing access on to Big Flat Road.

8. The developer shall develop a road maintenance agreement to address maintenance of the private road. In addition, the following statement shall appear on the face of the plat:

> "The purchaser and/or owner of this lot or parcel understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owners or homeowner association and that the County of Missoula is in no way obligated until the roads are brought up to standards and accepted by the County of Missoula."

9. Melody Lane shall be paved 20 feet back from Big Flat Road at a width of 24 feet, Urfer Drive shall be paved 20 feet back at a width of 24 feet from Kona Ranch Road if Lot 5 accesses Urfer Drive, and the access to Lot 4 shall be paved 20 feet back from Kona Ranch Road at a minimum 12 feet wide.

10. The following statement shall appear on the face of the plat:

> Any future subdivision of the remainder parcel shall be subject to the environmental assessment and public hearing requirement as provided in the Missoula County Subdivision Regulations for major plats.

11. A fee of $50 per lot shall be paid into the large diameter hose fund of the Missoula Rural Fire District.

12. The developer shall submit a map that shows the location of the corral and barn in relation to the Urfer Drive right-of-way. If there are encroachments, an encroachment permit shall be required or the removal of such encroachments shall be required

13. A boundary relocation, which would designate the remainder parcel, may be filed with the plat if the landowners so choose.

The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the variance to Section 3-2(5) of the Missoula County Subdivision Regulations which states that sidewalks and pedestrian walkways shall be provided and bikeways should be considered. The motion carried on a vote of 3-0.

Ann Mary Dussault said the plat has the access to Lot 3 coming off the private easement. Regarding the variance to Section 3-2(1), she said if Lot 3 accesses onto Kona Ranch Road, then a one (1) foot no-access easement shall be placed on the south end of Lot 3.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the variance to Section 3-2(1) which states that a private access lane serving three or more lots shall be paved to a minimum of 24 feet subject to the following:

> If Lot 3 accesses onto Kona Ranch Road, then a one (1) foot no-access easement shall be placed on the south end of Lot 3.

The motion carried on a vote of 3-0.

Barbara Evans said the developer wanted to provide the purchaser of this lot the choice of whether or not to access onto Kona Ranch Road or the private easement. If they choose to access onto Kona Ranch Road, then the motion carries. If they choose to access onto the private easement, then a second motion is needed to do just the opposite.

Ann Mary Dussault said Condition #4 speaks of a shared access for Lot 3. Unless the variance is exercised, they would come out on the private easement.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the variance to Section 3-2(10) which states that off-site access roads that are 500 feet in length or less shall be meet the paving standards. The motion carried on a vote of 3-0.

CONSIDERATION OF: INLAW ACRES - SUMMARY PLAT

Ron Ewart, Planner at the Office of Community Development, explained that Inlaw Acres is a proposed 2-lot subdivision located in the Swan Valley on the east side of Highway 83 between Seeley Lake and Lake Inez in Section 6, Township 17 North, Range 15 West. The subdivision consists of 2 lots of 10.0 and 5.29 acres in size plus a 23-acre remainder. The developer states there are no further development or subdivision plans for the remainder. The property is unzoned, and the Missoula County Comprehensive Plan recommends a density of up to one dwelling unit per five acres. The 1989 Seeley Lake Comprehensive Plan Amendment does not address density, but states that there is an abundance of land for residential use but that care should be taken to integrate new structures into the community. There exists on the property two mobile homes, one

of which is to be removed. An existing mobile home will remain on Lot 1 and a new mobile home will be placed on Lot 2. Bordering the property to the east is Forest Service land.

The Office of Community Development staff recommended that the summary plat of Inlaw Acres be approved, subject to compliance with the following conditions:

1. Grading, drainage, and driveway plans shall be approved by the County Surveyor. *Section 3-2, 3-4 Missoula County Subdivision Regulations.*

2. The Seeley Lake Fire District shall approve the driveway and turnaround plans prior to filing of the plat. *Section 3-2(6).*

3. Driveways shall be a minimum 12 feet wide and shall consist of a suitable base material and a minimum 4 inches of 3/4" minimum gravel surfacing, and grade shall not exceed 10 percent. *Section 3-2(6).*

4. Prior to filing of the final plat, all utilities shall be placed underground when undergrounding is technically and economically feasible as defined in Section 3-5. *Section 3-5.*

5. The following statement shall appear on the face of the plat:

> Any future subdivision of the remainder parcel shall be subject to the environmental assessment requirement and public hearing requirement as provided in the Missoula County Subdivision Regulations for major plats.
>
> *Section 4-3(D).*

6. An approach permit for Lot 2 shall be applied for and granted by the Montana Department of Transportation prior to filing of the plat, and the access location shall be shown on the plat. *Comments of the County Surveyor.*

7. The developer shall give to each lot purchasers the publication Fire Protection Guidelines for Wildland Residential Interface Development, and the brochure Living With Wildlife. *Staff suggestion, to address fire risk and wildlife concerns.*

The developer requested a variance to Section 3-2(5) of the Missoula County Subdivision Regulations which states that sidewalks and pedestrian walkways shall be provided in all subdivisions and that bikeways should be considered. Reasons for the request not to construct sidewalks or pedestrian walkways are that the area is rural, and because Highway 83 will probably undergo widening of the shoulders this year which will provide more room for pedestrians and bicyclists. Staff recommended approval of the request.

The developer requested a variance to Section 3-2(3) which states that collector streets (and above) must have a pavement width of 32 feet. State Highway 83, which serves this subdivision, is approximately 24 feet wide. The Montana Department of Transportation owns, maintains, and plans to widen the highway this summer to approximately 32 feet. Staff recommended approval of the variance request.

Ron Ewart said there is a rental on the lot and will share an existing access. Forest Service land is adjacent to this property. Their only concern was the risk of fire and suggested that the developer receive a copy of the booklet on wildland wildfire prevention.

Andy Fisher, Eli & Associates, explained that there are two long-standing existing rental units on the property. The two applicants plan to purchase these units where they currently live. The residence on Lot 1 will not change; the lot to the north will build a new house to replace the existing residence. They are purchasing the lot from their landlord who owns a considerable amount of property besides the property in question. He also has a number of scattered rentals throughout the area. He has no future development plans; if he does, he will have to deal with the Health Department. One home will be replaced and will have to be inspected for septic. The other system will be uncovered to ensure that it meets the Health Department's standards.

Fern Hart said of the two existing systems, one will be replaced and one will be reviewed. She wondered about the planned approaches?

Andy Fisher said one lot will stay the same. The other lot will share an existing access used by another property owner. They did not add new approaches onto the Highway. He wondered about the underground/overhead utilities regulations.

Colleen Dowdall said the regulation states that all public and private utilities shall be placed underground when undergrounding is technically and economically feasible. It defines technically and economically feasible. It doesn't address whether it is on the lot or off the lot. The Commissioners have jurisdiction on the subdivided land. She said she discussed this issue with the Rural Planning staff as to whether they had

concerns with underground or overground utilities with regard to wildlife. In heavily forested areas there are increased outages if the lines are above-ground. Currently, above ground lines serve the lot; putting the remaining lines underground may at least serve to eliminate part of the problem.

Andy Fisher asked about the part of the regulations which referred to whether it would be economically feasible. He wondered who would determine this?

Colleen Dowdall said the determination would be made by the Board of County Commissioners based upon provided evidence.

Andy Fisher said the applicants do not have the completed utility costs. He wondered if the applicants could come back before the Board if they felt that the economic aspect met the criteria.

Colleen Dowdall said the applicants could request an amendment to the approval.

Ann Mary Dussault asked if there were unapproved septic systems throughout this parcel?

Andy Fisher said yes, but these will be corrected. However, he did not know whether the septics would be reviewed on the remainder. The applicants will not own the remainder.

Ann Mary Dussault said both septic systems are currently unapproved systems. There will be permits and approvals on both systems.

Fern Hart said this is why they worked so hard to get the subdivision regulations changed.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the summary plat of Inlaw Acres based on the findings of fact and subject to the following conditions:

1. Grading, drainage, and driveway plans shall be approved by the County Surveyor.

2. The Seeley Lake Fire District shall approve the driveway and turnaround plans prior to filing of the plat.

3. Driveways shall be a minimum 12 feet wide and shall consist of a suitable base material and a minimum 4 inches of 3/4" minimum gravel surfacing, and grade shall not exceed 10 percent.

4. Prior to filing of the final plat, all utilities shall be placed underground when undergrounding is technically and economically feasible as defined in Section 3-5.

5. The following statement shall appear on the face of the plat:

> Any future subdivision of the remainder parcel shall be subject to the environmental assessment requirement and public hearing requirement as provided in the Missoula County Subdivision Regulations for major plats.

6. An approach permit for Lot 2 shall be applied for and granted by the Montana Department of Transportation prior to filing of the plat, and the access location shall be shown on the plat.

7. The developer shall give to each lot purchasers the publication Fire Protection Guidelines for Wildland Residential Interface Development, and the brochure Living With Wildlife.

The motion carried on a vote of 3-0.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request for a variance to Section 3-2(5) of the Missoula County Subdivision Regulations which states that sidewalks and pedestrian walkways shall be provided in all subdivisions and that bikeways should be considered and the variance to Section 3-2(3) which states that collector streets (and above) must have a pavement width of 32 feet The motion carried on a vote of 3-0.

HEARING - CERTIFICATE OF SURVEY REVIEW - FAMILY TRANSFER - BOYD - Tract X of COS 3607

Kathy Smith, Paralegal for the County Attorney's Office, explained that Patricia Boyd submitted a request for a family transfer exemption for Tract X of COS 3607. This is a 20 acre parcel located up the Blackfoot near Camas Creek. Ms. Boyd proposed to transfer approximately one acre to her daughter and son-in-law, Laurel A. and Paul L. Daniels.

The history of the parcel is as follows: COS 3607 was filed in 1988 by Harry M. Bandy retracing 7 parcels, relocating the boundaries between two parcels and creating Tract X as a parcel greater than 20 acres in size. Ms. Boyd purchased the subject parcel along with two other parcels in 1990.

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

The hearing was opened to public comment.

Patricia Boyd said her daughter and her husband and her two children have lived with her for the past four years and would like their own home.

Greg Martinsen, Martinsen Surveys, explained the history of the parcel. Patricia Boyd's home sits on a parcel created by a mortgage exemption.

Ann Mary Dussault asked what the applicant intended to do with the 19 acre remainder?

Greg Martinsen said it will still belong to Patricia Boyd.

Ann Mary Dussault asked if Mrs. Boyd had any other children?

Patricia Boyd said she had a total of four children. The children will get the acreage one way or the other some day.

Ann Mary Dussault asked the reason for the one acre parcel?

Patricia Boyd said cost. Her daughter cannot get the financing if there is more value involved.

Ann Mary Dussault the law allows the gift to a family member. However, she expressed concern that as an acre is taken out of a large parcel here and there, the results are a weird land use pattern and ownership.

There being no further comment, the hearing was closed to public testimony.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve a family transfer exemption for Tract X of COS 3607 for Patricia K. Boyd based on the finding that the request does not appear to be an attempt to evade the Montana Platting and Subdivision Act and contingent upon the transfer of the deeds to the family member. The motion carried on a vote of 3-0.

HEARING - CERTIFICATE OF SURVEY REVIEW - FAMILY TRANSFER - VAN VALLIS - PARCEL LOCATED IN THE NW 1/4 SW 1/4 OF SECTION 29 T13N R15W

Kathy Smith, Paralegal in the Attorney's Office, explained that Peter and April Van Vallis submitted a request for two family transfer exemptions for a parcel located in the NW 1/4 SW 1/4 of Section 29 T13N R15W. Mr. and Mrs. Van Vallis propose to transfer approximately 15 acres north of the access road to their son, William Van Vallis, and 10 acres south of the access road to their son, Duane Van Vallis. Peter and April Van Vallis currently have a home on the remaining 15 acres south of the access road.

The history of the parcel is as follows: The parcel is in its original condition. The Van Vallis' purchased the parcel in 1992.

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

The hearing was opened to public comment.

Peter Van Vallis said he and his wife have five sons. The remaining three sons will probably receive what he and his wife currently own. The two sons' intention is to live on the property in question. He said actually, they bought the land in 1972. Their plans have always been to give their children some land.

Fern Hart said the deeds will have to be transferred to the two sons.

Peter Van Vallis said he understood.

Fern Hart said the Commissioners must determine whether or not the request is an attempt to evade the Montana Subdivision and Platting Act.

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

JUNE 1, 1994 (CONT.)

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request by Peter and April Van Vallis for two family transfer exemptions for a parcel located in the NW 1/4 SW 1/4 of Section 29 T13N R15W based on the finding that the request does not appear to evade the Montana Subdivision and Platting Act and contingent upon the transfer of the deeds to the family members. The motion carried on a vote of 3-0.

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

JUNE 2, 1994

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

Audit List

Commissioners Evans and Hart signed the Audit List, dated June 1, 1994, pages 4-42, with a grand total of $132,053.69. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contracts

The Board of County Commissioners signed a Professional Service Contracts (six) with Edgar Smith, John E. Thompson, Steven N. Kelly, Barbara J. Compton, Renee Taffe-Johnson, and Sheryl Noethe, independent contractors, for the purpose of planning, acquiring supplies, instruction and cleanup for classes offered to the public by the Missoula Museum of the Arts, as per the terms set forth, for the period commencing January 1, 1994, through December 30, 1994, for compensation in the amount of $10 an hour or $7.50 an hour when co-taught.

Resolution No. 94-061

The Board of County Commissioners signed Resolution No. 94-061, a budget amendment for FY'94 for the Sheriff's Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure		Budget
1000-300-420180-111	Sheriff Patrol	$4,687.87
-141		$1,312.13

Description of Revenue		Revenue
7025-000-333096	Dare Contrib - School	
	SD#1	$5,000.00
	Frenchtown	$1,000.00

Resolution No. 94-062

The Board of County Commissioners signed Resolution No. 94-062, a resolution of intent to create Rural Special Improvement District 8916 to provide funds for the ongoing maintenance of the El Mar Estates Water and Sewer System, as per the items set forth, setting the hearing date for June 22, 1994, at 1:30 p.m.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 3, 1994

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

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder

Fern Hart
Fern Hart, Chair
Board of County Commissioners

JUNE 6, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Budget Transfer

The Board of County Commissioner approved and signed the following Budget Transfer and adopted it as part of the FY'94 budget:

> no. 94015, a request from the Superintendent of Schools to transfer $1,800 from the contracted services ($1,300) and transcripts ($500) accounts to the Capital account for the purpose of upgrading their personal computer.

Contract

The Board of County Commissioners signed a Contract, dated May 17, 1994, between Missoula County and Sharbono Construction, Inc., for the construction, installation and completion of RSID No. 8453, sanitary sewer collection system improvements for a portion of southwest Missoula in the Lower Miller Creek/Linda Vista area, as per the terms set forth, for a total sum of $1,116,181.00. The Contract was returned to Jesse Sattley, RSID Coordinator, for further handling.

Agreement

The Board of County Commissioners signed an Agreement for Provision of Professional Security Services with the University of Montana and the Missoula County Sheriff's Department, for the purpose of obtaining the expert services required to provide law enforcement, crowd control, and general security at University events conducted in University facilities, as per the terms set forth, for the period commencing July 1, 1994, through June 30, 1995, for compensation in the amount of $11.60 per hour for services rendered for concerts and similar events and $9.60 per hour for other events. The Agreement was returned to the Sheriff's Department for further signatures and handling.

Replacement Bond

Chair Hart signed Bond #63 in the amount of $2,030,000.00 for the County of Missoula, Hospital Revenue Refunding and Improvement Bond, Series 1978, 7.125%, due 6/1/07 (Missoula Community Hospital Project). The Bond was returned to First Interstate Bank.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement for JTPA Work Experience between Missoula County and the Human Resource Council for the purpose of providing short-term assignments to enhance the employability of persons who have never worked or have not recently worked by providing experience on a job, developing occupational skills, promoting good work habits, and developing specific occupational goals, the "Work Experience" objectives, as per the items set forth, for the period from June 20, 1994, through September 30, 1994, contingent on the availability of Federal funds and continued Federal authorization for program activities. The Agreement was returned to Marie Pruitt in the Personnel Office for further signatures and handling.

Grant Agreement

Chair Hart signed a Grant Agreement between Missoula County and the Department of Natural Resources and Conservation for the purpose of using project funds to bring groundwater in the area of the Linda Vista Subdivision into compliance with Montana water quality standards and to minimize the economic impact to the homeowners in that area, as per the items set forth, through August 31, 1995, with a total of $100,000.00 provided by DNRC. The Agreement was returned to Jim Carlson at the Health Department for further signatures and handling.

Other items included:

1) the Commissioners approved the recommendation to provide two adult tickets for admission to the Western Montana Fair to every Missoula County employee to recognize the employees and show the Commissioners appreciation; and

2) the Commissioners examined and approved the Response to the Review of the Animal Control Department, Missoula City-County Health Department, for fiscal years 1992 and 1993, July 1, 1991, to June 30, 1993, as submitted by the Missoula County Auditor's Office. The Response to the Audit was forwarded to the Recording Office for filing.

JUNE 6, 1994 (CONT.)

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 7, 1994

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

Monthly Report

Chair Fern Hart examined, approved and ordered filed the Monthly Report of the Clerk of the District Court, Kathleen Breuer, showing items of fees and other collections in Missoula County for month ending May 20, 1994.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract with McReed Social Consulting, an independent contractor, for the purpose of preparing and conducting in-service for Partnership Health Center (PHC) staff on "Ethics in Indigent Health Care", as per the terms set forth, for the period commencing May 2, 1994, through May 13, 1994, for compensation in the amount of $400.00. The Contract was returned to the Health Department for further signatures and handling.

Extension Letter

The Board of County Commissioners signed a letter to Andy Fisher of Eli & Associates approving a filing extension for Sullivan Lots, making the new filing deadline July 30, 1994.

Other items included:

1) the Commissioners delayed a request from the Clinton Community Center for cutting and selling 17 trees from the Donovan Creek Park and will refer the request to the County Park Board; and

2) the Commissioners appointed John Spangler as a member of the Missoula Planning Board to fill an unexpired term through December 31, 1995.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 8, 1994

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

Audit List

Commissioners Evans and Hart signed the Audit List, dated June 7, 1994, pages 4-22, with a grand total of $79,556.81. The Audit List was returned to the Accounting Department.

Monthly Report

Chair Fern Hart examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending April 30, 1994.

Monthly Report

Chair Fern Hart examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending May 31, 1994.

DAILY ADMINISTRATIVE MEETING

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

Notice of Hearing

Chair Hart signed a Notice of Hearing to continue the 0.5% Local Option Motor Vehicle Fee in FY'95 in accordance with MCA 61-3-537 and as amended by House Bill 312, setting the hearing for June 22, 1994, at 1:30 p.m.

Budget Transfers

The Board of County Commissioners approved and signed the following Budget Transfers and adopted them as part of the FY'94 budget:

1) no. 94016, a request from the Fair to transfer $5,500.00 from the capital fund to the Temporary Salaries account for the temporary help used in the construction of the new building;

2) no. 94017, a request from Youth Court to transfer $345.00 from the Permanent Salaries fund to the Office Supplies account to transfer from vacancy savings to cover cellular phone purchase;

3) no. 94018, a request from the Public Defender's Office to transfer $8,000.00 from Contracted Services to the Capital-Technical Equipment fund to cover the cost of additional computer equipment; and

4) no. 94019, a request from Financial Administration to transfer $37,500.00 from Contracted Services to the County Attorney's Permanent Salaries and Fringe accounts to support Colleen Dowdall's salary.

Resolution No. 94-063

The Board of County Commissioners signed Resolution No. 94-063, a Budget Amendment for FY'94 for Capital Improvements, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditure	Budget
Various Capital	$193,475.49
Description of Revenue	Revenue
INTERCAP	$193,475.49

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Barbara Evans and Ann Mary Dussault.

BID AWARD: GAS & DIESEL FUEL - SURVEYOR

Bids for the gas and diesel solicitation offer #9405-02, were opened Monday, June 6, 1994 at 10:00 a.m. with the following results:

Finest Oil Company	$74,886.70

The staff recommended that the bid for gas and diesel be awarded to Finest Oil Company in the amount of $74,886.70.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the gas and diesel bid solicitation offer #9405-02 to Finest Oil Company in the amount of $74,886.70 as the lowest and best bidder. The motion carried on a vote of 3-0.

HEARING: PROPOSED ANNEXATION TO MISSOULA RURAL FIRE DISTRICT - GRANT CREEK VIEW ADDITION, LOTS 6A & 6B

A petition was received by the Clerk and Recorder's Office to annex a parcel of land located in Missoula County to the Missoula Rural Fire District.

The petition for annexation has been checked and verified. The petition contains signatures of more than 50% of owners of the privately owned land in the area to be annexed and a majority of the tax-paying freeholders within the area described, so they meet the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory. No written protest was received.

The area to be annexed is described as follows:

Lots 6A and 6B in Grant Creek View Addition located in SE 1/4 of Section 32, T14N, R19W, Missoula County, Missoula, Montana.

The hearing was opened to public comment. There being none, the hearing was closed to public testimony.

Barbara Evans moved and Ann Mary Dussault seconded the motion to annex a parcel of land into the Missoula Rural Fire District described as: "Lots 6A and 6B in Grant Creek View Addition located in SE 1/4 of Section 32, T14N, R19W, Missoula County, Missoula, Montana." The motion carried on a vote of 3-0.

HEARING: HILLSDALE ESTATES- PRELIMINARY PLAT- POSTPONED FROM

Ron Ewart, Office of Community Development, explained that the Hillsdale Estates proposed subdivision is located in the NW 1/4 of Section 34, T13N, R20W, west of Blue Mountain Road and south of O'Brien Creek Road. The O'Brien Creek Meadow No. 1 subdivision is located just east of this property, and O'Brien Valley Estates No. 2 is located to the west and north. The proposal calls for 6 residential single family lots on 32.9 acres with a 5.15-acre common area on O'Brien Creek that will connect with common areas along the creek within the two adjacent subdivisions. The lot areas are planned between 3.2 and 6.8 acres. Four of the lots are to access off Hollister Terrace, a paved private street of about 730 feet in length that intersects Triple Creek Drive. Lots 1 and 2 are to share an access on to Triple Creek Drive. The submitted plat delineates No-Improvement Zones along the O'Brien Creek common area and the foot of a forested slope.

The Missoula Urban Comprehensive Plan, 1990 update, designates the meadow areas along O'Brien Creek as "Rural Residential- 1 unit per 5-10 acres". In this classification, clustering is encouraged to preserve open space. The hillsides that border O'Brien Creek are designated as "Open and Resource- 1 unit per 40 acres". This classification is used in areas that have physical limitations or resource values. Due to the small scale of the map, it is impossible to tell the exact boundaries of each designation of the Comprehensive Plan.

The zoning districts, however, are more accurately discernible. Approximately 21.3 acres of the property is included within the CA-3 (1 unit per 5 acres) zoning district, and approximately 11.6 acres is in the CA-1 (1 unit per 40 acres) zoning district. The zoning allows up to 4 lots within the 21.3-acre section of CA-3, and the 11.6-acre area that is zoned CA-1 can not allow for more than one lot. The developer has requested a Planned Variation to obtain a 10% density bonus as described in Section 8.13 d3a of the Missoula County Zoning Resolution to allow a sixth lot in the subdivision. The zoning in place allows for no more than a total of 5 lots, and there is insufficient reason to grant the Planned Variation to allow 6 lots. Therefore, this report recommends denial of the project based on the zoning allowance of up to a total of 5 lots. If there are 2 lots shown partially within the CA-1 zoning district, then no building permits can be issued for either lot, as the more restrictive standard (one unit per 40 acres) applies. The strictest interpretation of the zoning ordinance would only allow 4 lots and an unbuildable area in the CA-1.

The developer has requested a Planned Variation to allow a 10 per cent density bonus as described in Section 8.13 d3a of the Missoula County Zoning Resolution to allow six lots. The Office f Community Development staff recommended that the developer redesign the subdivision as a five lot subdivision because it was the staff's opinion that no more than five lots could be allowed in this subdivision even with the Planned Variation.

On May 3, 1994, the Planning Board recommended that the preliminary plat of Hillsdale Estates be submitted by the developer subject to the finding of fact as outlined in the staff report and subject to the ten conditions as follows. This recommendation was for a six lot subdivision provided it was legal to do so.

1. Grading, drainage, erosion control, street, and sight distance plans shall be approved by the County Surveyor. Hollister Drive shall be paved to 24 feet. *Section 3-2 and 3-4.*

2. The developer shall develop an open space resource management plan and implementation program for the subdivision prior to filing of the final plat. The management plan shall address wildland urban interface fire protection issues, protection and enhancement of wildlife habitat and fisheries and weed control. The plan shall provide for the planting of a mixture of native shrubs and conifers within the easements to provide suitable habitat for wildlife. This plan shall be approved by the Board of County Commissioners. *Section 5-1(4)(H)(10). Required of adjacent O'Brien Creek Meadow Subdivision.*

3. The developer shall file Property Owner's Association Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State. *Section 4-2(5)(D)(3).*

4. The Property Owner's Association Articles of Incorporation, By-Laws, and Covenants shall be approved by the Board of County Commissioners. They shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict. *Section 5-2(4)(E).*

5. The following statement shall be shown on the face of the final plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."
> *Section 3-5.*

6. A fee of $50 per lot shall be paid into the large diameter hose fund of the Missoula Rural Fire District. *Comments of the Rural Fire Marshal.*

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

> "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a future RSID for any improvements to Blue Mountain Road and O'Brien Creek Road, based on benefit, and may be used in lieu of their signatures on an RSID petition."
> *Required of adjacent O'Brien Creek Meadows Subdivision and O'Brien Valley Estates.*

The developer requested a variance to Sections 3-2(3) and (5) which states that rural subdivisions shall be paved to 24 feet, and that sidewalks and pedestrian walkways shall be provided in all subdivisions. The Planning Board recommends approval of the variance request to the sidewalk requirement, and denial of the variance request to the pavement width requirement. The Board recommends that Hollister Drive be paved to the regulation 24-foot width.

Wally Congdon, representing John Diddel, explained that the issues surrounding this proposed subdivision have been addressed. In doing the adjacent subdivision, there were several issues that seemed to be important and that were requested by the Commissioners in approving the adjacent subdivision: 1) preservation of the common area or the corridor along O'Brien Creek to link the lower portion of the creek to the upper portion in order to have a corridor of the entire distance; 2) to have wildlife corridors, no-improvement and no-building zones throughout the proposed development so that wildlife is free to move throughout the area; and 3) something should be done to protect that portion of the property that is environmentally sensitive. They identified two different areas on this site that they thought were sensitive; the O'Brien Creek corridor and the timbered hillside. Decisions to protect these were based on several things: 1) a 50 foot setback as required in the riparian standards. They proposed a 225 foot setback which included a no-improvement zone along the creek banks so that houses couldn't be seen from the road. 2) This involved putting restrictions and covenants on the property. A conservation or plan for the area would be developed which would be part of the final plat approval process. He said they intend to work with Tim Hall of Rural Planning to develop a resource plan for this site similar to the adjacent subdivision. This would protect the timbered area.

He referred to the issue of density. They applied for a Planned Variation on the one per five acre zoning portion of the site thinking that a density bonus would be appropriate if they set aside, complied with, and made an effort to preserve substantial environmental amenities on the site. The issue before the Commissioners is a policy question regarding what the County's policy is relative to density bonuses or density increases for Planned Variations. He read from the Zoning regulations: Section 2.01 entitled "Purposes" states that "the purposes of this chapter are to stabilize and protect land uses and allow a **maximum degree of latitude** within the regulations, to promote harmony, ..." He said if the Commissioners do not allow a density bonus to allow a developer an additional dwelling site in exchange for giving back environmental or other amenities, they are discouraging the types of projects they wish to encourage. The zoning ordinance, Section 2.06, states, "Planned Unit Developments and Planned Variations are encouraged to preserve agricultural land and to enhance environmental amenities found in rural areas." He said it was their intention to enhance the environmental amenities by saving the corridor along the creek and tying it into the rest of the corridor in perpetuity and by limiting what could be done with the timbered land on the hillside to the rear of the property.

He said in an effort to resolve part of the density problem, they designated within each lot a building zone where actual improvements on the property can be placed. The lots are substantially larger than the adjacent subdivision. He suggested that the building zone that extends into the one per forty acre zoning

be limited so that the residence has to placed outside the zone. By requiring the residents on Lot 4 and 5 to be located within the one per five acre zoning, there would only be one residence or one dwelling constructed within Lot 6 which is within the one per forty acre zoning portion of the property. With this change, the environment amenities are protected exceptionally well. Over 75% of this site is permanently protected through this proposal. He stated that he was unaware of any other subdivision submitted in the history of the County that preserves that much land permanently as part of the proposal.

The Planning Board approved the proposal and noted that they no objection to the number of buildings. The question was whether or not the zoning allowed it. This is a policy question for the Commissioners to make. He hoped that the Commissioners liberally look at the regulations so that similar proposals in the future can be approved without the question of what is legal and what is not.

The hearing was opened to public comment.

Charles Stevenson, resident of O'Brien Creek Road, said the State of Montana doesn't look at water quality degradation in cumulative effects. Regarding the first subdivision on the site, O'Brien Creek Meadows, he said the State first ruled that 35 homes would degrade the water. The subdivision did 13 then 22 homes which were approved by the State. The State looked at the two separately. The State is not looking after their "back yards". The County must take on this responsibility. One more home on this bench will have an effect on the water quality. He wondered if allowing this home would be legally ethical? He asked the Commissioners to be stewards of the land.

There being no further comment, the hearing was closed to public testimony.

Barbara Evans asked if the Commissioners were legally able to determine water quality issues?

Colleen Dowdall said the State has the authority to regulate the lifting of sanitary restrictions on subdivisions.

Barbara Evans said it made sense to her to try to save the hillsides and the creek corridor. 75% of the land will be set aside. She said the developers are asking for what the Planned Variation allows. The important thing is to look after the environmental issues. It is less important to allow one more house than it is lose the environmental values.

Fern Hart expressed concern as to whether or not the 10% allowance for a Planned Variation is a strict interpretation of the law She said in this instance, the Commissioners are expected to make a determination. She referred to the density calculations. The developers are requesting the Commissioners to round up. This proposal appears to be a fine subdivision. The setbacks would not permit building on the slopes. She said she has tried to weigh all of the issues and facts in this proposal. The Commissioners must be firmer about what the 10% density bonus really means. She said she could not support more than five lots.

Ann Mary Dussault asked the legal staff to address the rounding up issue.

Colleen Dowdall said the allowable units would be increased by the Planned Variation from 4.26 units to 4.686 units. She wondered if there has been a custom in the County that the Commissioners have allowed developers to round up.

Philip Maechling, Zoning Office, stated he was not aware of the process available that would allow the developers to round up. No mechanism is found in the zoning to round up. The Planned Variation is intended to provide a 10% bonus. It is not intended to circumvent the PUD process or any other zoning district change. It is only with a Planned Variation that the Commissioners could approve a subdivision that would allow for lots to cross into the one per forty acre zoning district by reducing the lot size. In most cases, the more restrictive zoning district applies to a whole lot that would have two different zoning district boundaries. Three of the proposed lots are in the C-A1 zone. When the staff has attempted to round up, they have been told that there is no mechanism available to round up. It is up to the Commissioners whether there is a mechanism to round up.

Ann Mary Dussault asked if it was Philip Maechling's opinion that the only time a subdivision can have a Planned Variations is when there are 10 or more lots?

Philip Maechling said the 10% would allow 10 or more lots and also would the change in lot size to achieve the right number of lots for the designated zoning district.

Ann Mary Dussault asked if there was anything in the zoning regulations that would clearly imply that Planned Variations can only be applied to units of ten.

Philip Maechling said no. If the density calculation came out to 4.7 units and 10% was added, 5 units could be achieved. Otherwise, he didn't know where they could find a rounding mechanism. This proposal starts with 4.26. If it started with 4.7, 5 units could be achieved.

Colleen Dowdall stated that there are 4.26 units in the 1/5 zone. In the 1/40 zone, there is basically one quarter of a building which equates to .25 units. This totals 4.5; with the 10% for the Planned Variation, this equates to 4.961. If this was rounded up, they could have 5 units. She stated she could not find a way to get to six with the 1/40 density.

Fern Hart requested that this be put into a policy because in the future, other subdivisions will be equally as tough.

Barbara Evans said the problem with this process is that it is all on paper; the process doesn't take into account what the land could handle.

Colleen Dowdall said the advantage to the developer is that they are able to take advantage of what the zoning districts are without going through a rezoning. They could choose to rezone in order to match the land. However, the developers in this case have chosen not to do this.

Fern Hart asked if one dwelling unit could be built on the stricter zoning?

Colleen Dowdall said this is an added benefit, but the density is actually being spread out. The 1/40 zone does not have a minimum lot size.

Wally Congdon said in the 1/40 zone, the zoning ordinance allows one lot on a ten acre site as a condition of use in this zoning. There is 11.86 acres at this location. If this is allowed, the 4.51 becomes 5.26 and if the 10% density bonus is given on the whole site, the density is 5.79 which is closer to 6. He said it is unfair to put the .25 in the formula. He stated that they asked that the Planned Variation be applied to the C-A3 zone, not on the whole site. Each zone should be treated independently, but for purposes of density, the staff has treated each zone dependently. In the future, if the Commissioners chose not to round up, a whole lot of projects that are 9.9 densities cannot be approved to be consistent. The purpose in the zoning language is to allow a maximum degree of latitude. If the environmental benefit for a set project is such that it would justify rounding, it would be best to be flexible.

He said when they asked for the Planned Variation, they did not even count the 1/40 zone as a problem, but used the C-A3 zone with a 10% density bonus to reach 5. One building has always been allowed on the 1/40 zone portion of the property. He stated that it has only been in the last few days that it has become an issue.

Colleen Dowdall said included in the May 3rd staff report, the staff addressed the issue of the 1/40 zone as probably a place where a developer could not put a building site because it didn't meet the density requirements. She stated that Wally is asking the Commissioners to pretend that he has asked for a 10 acre parcel that would meet the requirements of zoning for a conditional use which would give him the density. She stated the developer either has to request the 10 acres and put something on there with a conditional use permit and then apply the densities to the rest of the parcel or the developer must follow the rules of the Planned Variation. The developer can't do it both ways. She stated that the only way the County will stay consistent is if the zoning resolution is followed and applied.

Fern Hart said to request the one unit on the C-A1 zone, it has to be a separate designation from the Planned Variation.

Colleen Dowdall said they would have to obtain a conditional use permit which is issued by the zoning officer. A conditional use permit is a use that is conditioned upon meeting the zoning requirements. The requirements that must be met are for an occasional sale or gift to a family member and a parcel no smaller than 10 acres.

Fern Hart said in order to make the density come out to 6, the developer is actually requesting two separate applications. The Commissioners must deal with one or the other.

Colleen Dowdall stated the developer is using the argument that the 1/40 zone should get a development right. The Planned Variation would be applied to the other acreage which would have five units. These two combined would give the developer 6 units per acre. She stated that she felt that the one building site on the 1/40 zone could be allowed if it was a pre-existing lot of record. The proposed lot within the 1/40 zone is not a pre-existing lot of record. If the developer is given the Planned Variation, he should be able to do five total lots.

Wally Congdon stated that what Colleen Dowdall said was not what the developer is suggesting at all. Traditionally, the County has said that parcels like the 1/40 zone could be used for something. The

Commissioners may be saying that everyone who has a lot less than 10 acres in a 1/40 zone is not an existing lot. The 11.89 acre site has been counted as a building site. Mr. Diddel could have applied for a 10 acre family transfer and could have come in with the other 22.46 acres with a Planned Variation to get five building sites. He stated they didn't do this because it made sense to do the whole thing as a package. There isn't a minimum lot size in the 1/40 acre zoning. Everyone has always counted this site as one building site. The rule is being established that no building will be allowed on parcels where the zoning doesn't go along boundary lines.

Colleen Dowdall said the developer could rezone the property in order to make the parcel a buildable lot. The property has not always been treated as a buildable lot. At the May 3rd meeting, it clearly states that this is not the case. In the past, a PUD was proposed for this area. A PUD is a rezoning.

Barbara Evans stated that this is a County-wide problem. There are 10 acre parcels all over the county. She wondered if rezoning these parcels would result in spot zoning?

Colleen Dowdall said if it was actually be a parcel of record, then a developer would have a vested right to obtain a building permit. The developer can develop this parcel even though part of it is a 1/40 zone. The staff recommended four or five lots. The parcel of record is the 33 acres.

Ann Mary Dussault said the zoning designation of C-A1 exists as a part of a larger parcel and does not exist as a parcel to itself. The C-A1 extends further to the south and does not cover a parcel, but cuts the parcel. She asked what the deadline was on the plat?

Ron Ewart said the deadline was today because the developer requested that the hearing be postponed. He said if the developers agreed, the issue could be extended.

Ann Mary Dussault moved and Fern Hart seconded the motion to postpone action on Hillsdale Estates with the permission of the developer to allow the developer to return with a proposal that 1) recognizes there is no inherent building right in the CA-1 zone; 2) allows for the zoning densities in the remainder of the parcel and the developer is free to attempt to a Planned Variation within those densities which gives the potential of 5 lots on the entire parcel. The motion carried on a vote of 2-0 with Barbara Evans abstaining from the vote.

Wally Congdon asked if they brought in a Planned Variation for the portion of the property zoned CA-3, would the policy of the Commissioners be to round up? If the zoning equated to 4.68, would the Commissioners round up?

Ann Mary Dussault stated that it was her opinion that no more than five residences should exist on this parcel.

HEARING - CERTIFICATE OF SURVEY REVIEW: FAMILY TRANSFER - IBEY - LOT 15B OF COS 1900

Kathy Smith, Paralegal in the Attorney's Office, explained that Earnest and Inga Ibey submitted a request for two family transfer exemptions for Lot 15B of COS 1900. This is a 10.14 acre parcel located in the Meadows East subdivision south of Evaro. Mr. and Mrs. Ibey propose to split the parcel in half and transfer each to their son and daughter, Tim Ibey and Dorothy Tepp.

The history of the parcel is as follows: Geneva Cates owned the land since approximately 1947. She subdivided the land into Meadows East through Certificate of Survey 1677 in 1978. Lot 15 of COS 1677 was divided by a previous owner using an occasional sale exemption and remainder. The Ibeys purchased Lot 15B in May, 1994.

According to the records kept by the Missoula County Surveyor's Office, the applicants have used the exemptions to the Subdivision and Platting Act as follows: An occasional sale in 1975 and an agricultural exemption in 1976.

The hearing was opened to public comment.

Tim Ibey explained that both he and his sister were in need of a house. Their parents had an acre behind their house, which they traded to a neighbor for the larger parcel. The family exemption has been used in the past to split land to make a salable parcel. He said this was not their intention. They wish to build two residences on the property in order to live there. He explained that his parents did not want to sell the property and take a capital gain, so they traded the one acre parcel for the 10 acre parcel. The parents wanted to give their children a piece of land, but one acre would not be large enough for two homes.

Fern Hart said the Commissioners must determine whether or not the applicant is attempting to evade the Montana Subdivision and Platting Act.

JUNE 8, 1994 (CONT.)

Inga Ibey said she and her husband live near the property in question.

Tim Ibey said he had the plans and bids for the two homes. They will access their property from Indreland Road.

Ann Mary Dussault asked the Ibeys to address the exemptions to the Subdivision and Platting Act used in the past.

Inga Ibey explained that she and her husband jointly owned a piece of land with her brother. Half of the property was sold. A neighbor wanted some of their property which was traded for the 10 acre parcel in question.

Barbara Evans explained that the Law requires the Commissioners to determine whether or not there is a pattern of, or an attempt to evade the Montana Subdivision and Platting Act. This would mean that the applicant would try to evade going through subdivision review for roads, water, access, etc. However, the law allows an applicant to give each of the children a piece of property.

Fern Hart asked if there would be a problem with building permits in this area?

Colleen Dowdall, Deputy County Attorney, said the property is outside the building code jurisdiction at this time. If they build after the County-wide building permit system is in place, then they would need to meet the Comp Plan designation which is currently one unit per forty acres. The applicants would need to obtain a Comp Plan Compliance Permit.

Tim Ibey said the property is outside the four and a half mile building permit area.

There being no further comment, the hearing was closed to public testimony.

Barbara Evans moved and Fern Hart seconded the motion to approve the request by Earnest and Inga Ibey for two family transfer exemptions for Lot 15B of COS 1900, a 10.14 acre parcel, for their son and daughter, Tim Ibey and Dorothy Tepp, based on the finding that the request does not attempt to evade the Montana Subdivision and Platting Act and contingent upon the transfer of the deeds to the family members. The motion carried on a vote of 2-1 with Ann Mary Dussault voting against the motion.

Ann Mary Dussault explained that there are criteria which determine evasion of the subdivision laws: whether or not there is a parcel that has been illegally created by subdivision such as the Meadows of Baron O'Keefe. Any further subdividing of the land without going through the subdivision process continues this pattern. She said she has continuously and historically voted "no" on the Meadows of Baron O'Keefe because she believed any further division of this particular land must go through the subdivision review process.

At this time, several employees and department heads presented Ann Mary Dussault with flowers and voiced their support and thanks for her service and leadership to Missoula County in view of her loss of the primary election.

Ann Mary Dussault commented that she was surprised by the results of the election. However, Missoula County as a local government is clearly one of the best counties in the state of Montana. This is due primarily to the quality of the elected officials and their relationships and the quality of the staff. She stated she expected to continue this high quality even though the players will change. She said the voters believed it was time for a change. She thanked the group for their support.

There being no further business to come before the Board, the Commissioners were in recess at 3:00 p.m.

JUNE 9, 1994

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

Monthly Report

Chair Fern Hart examined, approved and ordered filed the Monthly Report of Sheriff Doug Chase, showing items of fees and other collections on account of Civil Business in Missoula County for month ending May 31, 1994.

Monthly Report

Chair Fern Hart examined, approved and ordered filed the Monthly Reconciliation Report of Justice of the Peace, Michael Morris, for month ending May 31, 1994.

JUNE 9, 1994 (CONT.)

Indemnity Bond

Chair Fern Hart examined, approved and ordered filed an Indemnity Bond naming NORCO as principal for warrant #1062, dated March 5, 1994, issued on the Greenough Potomac Fire Department fund in the amount of $9.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Agreement

The Board of County Commissioners signed a Professional Services Agreement between Mineral County and the Missoula City-County Junk Vehicle Program, for the purpose of obtaining storage for junk vehicles lawfully released to the Mineral County Junk Vehicle Program, as per the terms and conditions set forth. The Agreement was returned to the Health Department for further handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Steven Philips, an independent contractor, for the purpose of facilitating a values clarification and team building workshop for the Partnership Health Center staff, as per the terms set forth, for the period commencing May 2, 1994, through May 13, 1994, for compensation in the amount of $150.00. The Contract was returned to the Health Department for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 10, 1994

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

Election Canvass

In the forenoon, Commissioners Hart and Evans and Clerk of Court, Kathleen Breuer, serving as the Board of Canvassers, canvassed the results of the Primary Election held on June 7, 1994.

Preliminary Engineering Agreement

Chair Hart signed a Preliminary Engineering Agreement between Missoula County and the Montana Department of Transportation for the CMAQ Missoula County Paving Project described in the Missoula County Paving Study and specifically listed on the Exhibit attached to the Agreement, as per the conditions set forth, with the matching fund percentages being 86.58% State and 13.42% County, as this project will be on Off-System roads. The Agreement was returned to Horace Brown, County Surveyor, for further signatures and handling.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder

Fern Hart
Fern Hart, Chair
Board of County Commissioners

JUNE 13, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Dussault was on vacation the week of June 13th through the 17th.

Indemnity Bond

Chair Fern Hart examined, approved and ordered filed an Indemnity Bond naming Marcia M. Jacobson as principal for warrant #223503, dated June 10, 1994, issued on the Missoula County Payroll fund in the amount of $613.62 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

JUNE 13, 1994 (CONT.)

Resolution No. 94-064

The Board of County Commissioners signed Resolution No. 94-064, a budget amendment for FY'94 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'94 budget:

Description of Expenditures	Budget
Permanent Salaries	$2,360
Fringe Benefits	$ 620
Description of Revenue	**Revenue**
Infant Mortality Revenue	$3,000

DHES Contract Modification No. 340075-02. Federal Catalog No. 93.994.

Deed Restriction Agreement and Subordinate Deed of Trust

Chair Hart signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and the following for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down payment, closing costs and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth:

> Carl J. and Bethany Voss, in the amount of $19,506.00, for property located at 3102 Grant in Missoula, dated June 7, 1994.

The documents were returned to Cindy Wulfekuhle in Community Development Programs for further handling.

CTEP Project Proposal Sponsorship

The Board of County Commissioners signed approval as the local government sponsor for the following proposed CTEP (Community Enhancement and Transportation) project: Rehabilitation of the Blackfoot Stage, includes refurbishing the leather and wood to nearly new condition, and will be exhibited with the streetcar at the Fort Missoula Museum. The document was returned to County Surveyor Horace Brown for further handling.

Other items included:

> The Commissioners reviewed and approved the Review of the Partnership Health Clinic as of March 31, 1994, as submitted by the Missoula County Auditor. The Review was forwarded to the Recording Office for filing.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 14, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Plat

The Board of County Commissioners signed the Plat for O'Brien Creek Meadow No. 2, Phase 2, a subdivision plat located in the N1/2, Section 34, T13N, R20W, PMM, Missoula County, a net area of 6.097 acres, with the owner of record being John H. Diddel.

GIS Contract Extension

The Board of County Commissioners signed an Extension to the Contract between Missoula County and Geodata Services, Inc. signed on August 18, 1993, whereby Geodata Services, Inc. agrees to provide the County with 15 hours of additional analysis of data accumulated in the Cumulative Effects/Carrying Capacity Project and outlined in the Missoula County Data Directory for a fee of $750.00, as per the terms set forth. The Contract Extension was returned to Cindy Klette in the Commissioners office for further signatures and handling.

JUNE 14, 1994 (CONT.)

Other items included:

The Commissioners voted to increase the County's grant to the YWCA by $2,500.00.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 15, 1994

The Board of County Commissioners met in regular session; a quorum of the Board was present. No Administrative Meeting was held. Commissioner Evans attended a Joint Meeting of the TTAC & TPCC Committees at City Hall in the forenoon.

Audit List

Commissioners Hart and Evans signed the Audit List, dated June 14, 1994, pages 4-42, with a grand total of $256,866.94. The Audit was returned to the Accounting Department.

PUBLIC MEETING - JUNE 15, 1994

The Public Meeting was called to order at 1:35 p.m. by Chair Fern Hart. Also present was Commissioner Barbara Evans.

HEARING - CERTIFICATE OF SURVEY REVIEW: AMENDED OCCASIONAL SALE - RAYLE - PARCEL OF LAND LOCATED IN THE NW1/2 SW1/2 OF SECTION 10 T12N R20W

Kathy Smith, Paralegal in the Attorney's Office, explained that Craig Rayle, Dorothy Garceau and Minott and Janice Pruyn submitted a request to amend an occasional sale exemption located in the NW1/2 SW1/2 of Section 10 T12N R20W, which was approved by the Board of County Commissioners on March 15, 1993. The property is located south of Missoula off Highway 93. At the March, 1993 Public Meeting, the parties requested a five acre occasional sale on the south half of their joint holdings. A Certificate of Survey was never filed and the parties' situation has since changed and they are now requesting to amend the previous occasional sale to a 10 acre occasional sale on the east portion of the north half of the parcel. The Pruyns have already applied for and received approval of a boundary relocation adding an additional 10 acres of the SE1/4 NW1/4 SW1/4 to their already existing ownership which adjoins this parcel. Because the parcel is described as two separate parcels, the original occasional sale and the amended occasional sale create three salable parcels for which they have a single buyer. In addition, at the March 1993 hearing, various restrictions were placed on the parcel including a no-improvement area on the NW1/4 SE1/4 NW1/4 SW1/4 other than utilities and a drainfield if necessary.

The history of the parcel is as follows: Other than the boundary relocation by the Pruyns, there has been no change in the parcel.

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

The hearing was opened to public comment.

Craig Rayle showed the Commissioners a before and after drawing of the occasional sale. He requested that the previous occasional sale approval be abandoned. The parcels will end up larger as a result of the new configuration. The buyers of the lots do not wish to subdivide the land further; however, the buy-sell agreement allows one split. The zoning is one home per five acres. The no-build zone is located on the Pruyns' land. The Pruyns do not wish to subdivide their land, but they may give their kids a portion of the parcel.

Fern Hart said there will be one owner of three ten acre parcels.

Barbara Evans said this configuration will not add a single parcel. There are still four parcels.

Craig Rayle said the configuration is different. The original configuration was odd. The buyer of the lots is a builder and will try to sell the ten acre parcels as they exist. He said the proposed configuration is better for the land.

There being no further comment, the hearing was closed to public testimony.

Barbara Evans moved and Fern Hart seconded the motion to approve the request by Craig Rayle, Dorothy Garceau and Minott and Janice Pruyn to amend an occasional sale exemption which was approved by the Board of County Commissioners on March 15, 1993, described as the NE1/4, NW1/4, SW1/4, Section 10,

JUNE 15, 1994 (CONT.)

T12N, R20W, based on the finding that the request does not attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

Fern Hart announced that the continuation of the hearing for Hillsdale Estates, Summary Plat, postponed from June 8, 1994, will be held at the Public Meeting on June 29, 1994.

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

JUNE 16, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #11, pay date 5/27/94, with a total Missoula County payroll of $472,630.04. The Transmittal Sheet was returned to the Auditor's Office.

Budget Transfers

The Board of County Commissioners approved and signed the following Budget Transfers and adopted them as part of the FY'94 budget:

1) no. 94020, a request from the Historical Museum to transfer $3,448 from the Merit Reserve fund to the Permanent Salaries account; and

2) no. 94021, a request from Justice Court #2 to transfer $1,000.00 from the Capital/Computer fund to the Capital/Remodel fund for the purpose of remodeling their counters.

Resolution No. 94-065

The Board of County Commissioners signed Resolution No. 94-065, a resolution relating to Rural Special Improvement District No. 8452; creating special funds and accounts for the administration of money derived therefrom and defining the terms and the manner of payment of $213,000 Rural Special Improvement District No. 8452 Bonds (DNRC Revolving Loan Program). The resolution was returned to Jesse Sattley, RSID Coordinator, for further handling.

Resolution No. 94-066

The Board of County Commissioners signed Resolution No. 94-066, a resolution relating to Rural Special Improvement District No. 8453; creating special funds and accounts for the administration of money derived therefrom and defining the terms and the manner of payment of $2,022,000 Rural Special Improvement District No. 8452 Bonds (DNRC Revolving Loan Program). The resolution was returned to Jesse Sattley, RSID Coordinator, for further handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Vocational Resources, Inc., for the purpose of providing the services described in the Employee Assistance Program Services Proposal dated February 3, 1988, as per the terms set forth, effective for two years, for a fee of $1.90 per employee per month, based on a count of regular status employees on July 1st of each respective year, with a fee of $10,488.00 to be paid for the annual period beginning July 1, 1994.

Addendum to Professional Services Contract

The Board of County Commissioners signed an Addendum to the Employee Assistance Program Contract between Missoula County and Vocational Resources, Inc., providing for a limited scope Employee Assistance Program for the Search and Rescue and Reserve Deputies of the Missoula County Sheriff's Department effective July 1, 1994, effective for two years through June 30, 1996, for a fee of $500 per year effective July 1, 1994, with the maximum number of volunteers eligible for this service under this set fee is one hundred.

JUNE 16, 1994 (CONT.)

Resolution No. 94-067

The Board of County Commissioners signed Resolution No. 94-067, a resolution approving the annexation to the Missoula Rural Fire District of the parcels of land described as follows: Lots 6A and 6B in Grant Creek View Addition located in the SE 1/4 of Section 32, T14N, R19W, Missoula County, Montana. These parcels will be assessed for said annexation a fire district levy along with other property already a part of said Missoula Rural Fire District.

Other items included:

1) the Commissioners approved the addition of a .5 FTE in the Clerk & Recorder/Treasurer's Department prior to the end of this fiscal year;

2) a motion was passed by the Commissioners authorizing the Chair to sign the bond closing documents for RSID No. 8453; and

3) the Commissioners authorized the Chair to sign the form from the Montana Department of Commerce designating the appropriate payee for receipt of Missoula County's 1994 allocation of $120,000 from Plum Creek Timber, Champion International and Stimson Lumber--the Missoula Area Economic Development Corporation Revolving Loan Fund was designated as the payee and the form was forwarded to Jon Noel at the Department of Commerce in Helena.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 17, 1994

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Libby attending a Mental Health Board meeting, and Commissioner Evans was out of the office until noon.

Vickie M. Zeier
Clerk & Recorder

Fern Hart, Chair
Board of County Commissioners

JUNE 20, 1994

The Board of County Commissioners did not meet in regular session. Commissioner Dussault was on vacation the week of June 20th through the 24th; Commissioner Hart was out of the office all day; and Commissioner Evans was out of the office until noon.

JUNE 21, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Modification of Agreement

Chair Hart signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences to modify the terms of the agreement between them concerning administration of a hepatitis B immunization project (DHES No. 330196), as per the items and terms set forth. The Modification was forwarded to DHES in Helena.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and Tom and Debra Pearson for the purpose of outlining the covenants between them in conjunction with the approval of the Summary Plat of Sunny Estates, as per the items set forth.

Service Contract

Chair Hart signed a Service Contract between the Board of County Commissioners of Mineral County and the Superintendent of Schools of Missoula County, who will perform the duties required of County Superintendents in Mineral County for the period from July 1, 1994, to June 30, 1995, as per the terms set forth, for a yearly payment to the Missoula County General Fund at a rate of $3,000.00 for the services

JUNE 21, 1994 (CONT.)

required. The Contract was returned to Rachel Vielleux, County Superintendent of Schools, for further signatures and handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 22, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Closing Certificates - RSID #'s 8452 and 8453 Bonds

Chair Hart signed the Closing Certificates relating to the $241,000 RSID No. 8452 Bond Issue and the $2,022,000 RSID No. 8453 Bond Issue (DNRC Revolving Loan Program) for the Linda Vista Sewer Projects. The Certificates were returned to John DeVore, Administrative Officer, for further handling.

Construction Easements

The Board of County Commissioners signed Construction Easements between Missoula County and the following property owners for the purpose of constructing sanitary sewer improvements over, under and across a portion of the property described, as per the terms and conditions set forth, for the sum of $1.00 and will terminate upon completion of the construction of sewer improvements:

1) David R. & Sally Hickman, Lot 11 Block 2 Linda Vista 3rd Supplement also known by street address as 3003 Eldora Lane;
2) Western Montana Retriever Club, Micro Book 265, Page 275, with the added condition that the fence removed or damaged shall have new posts set in concrete;
3) R. E. Wirth, Lot 16 Massey McCullough;
4) Jeff Langan, Lot 15 Massey McCullough also known by street address as St. Thomas Drive;
5) Warren L. and Mavis D. Schiffer, Lot 13 Block 3, Linda Vista 3rd Supplement also known by street address as 6201 Raelene Court;
6) Bryant & Joan Harris, Lot 11A Massey McCullough Acres also known by street address as 6185 St. Thomas Drive;
7) Mary O'Connell, Lot 6 Valley Vista also known by street address as 3000 Putter Court;
8) Joe & Charie Briggs, Lot 3 Block 2 Linda Vista 3rd Supplement also known by street address as 3024 Eldora Lane;
9) Doug & Terri Daligney, Lot 10 Block 3 Linda Vista 3rd Supplement also known by street address as 6209 Raelene Court;
10) Woodford G. & Cynthia A. Bumgardner, Lot 11 B Massey McCullough Acres also known by street address as 6205 St. Thomas Drive;
11) Loren T. Shriner, Lot 9 Block 2 Linda Vista 3rd Supplement also known by street address as 3004 Eldora Lane;
12) Joseph P. & Nancy E. Tredik, Lot 19 Block 5 Linda Vista 1st Supplement also known by street address as 3225 Helena Drive;
13) Edward R. & Colleen Marks, Lot 6 Block 2 Linda Vista 3rd Supplement also known by street address as 3016 Eldora Lane;
14) Eric F. & Sherry A. Berglund, Lot 15 Block 3 Linda Vista 3rd Supplement also known by street address as 6109 Raelene Court;
15) James E. & Korliss DeLange, Lot 1 St Thomas Acres also known by street address as 6320 St. Thomas Drive;
16) Gene E. & Nora Stephens, Lot 8 Block 1 Linda Vista Subdivision also known by street address as 3345 Helena Drive;
17) Richard C. & Sharon L. Auerbach, Tract 2 COS 3972 also known by street address as 6105 Helena Drive;
18) David E. & Dianne Mager, Lot 11 C Massey McCullough Acres also known by street address as 6215 St. Thomas Drive;
19) Norman R. & Kathleen K. Larum, Lot 1 Block 8 Linda Vista 2nd Supplement also known by street address as 3225 Eldora Lane;
20) John A. & Diane Zimorino, Lot 8 Block 2 Linda Vista also known by street address as 3416 Darrell Lane;
21) Nestor W. & Virginia M. Johnson, Lot 9 Block 1 Linda Vista also known by street address as 3325 Helena Drive;
22) Charles L. & Rebecca A. Tish, Lot 4 Block 2 Linda Vista 3rd Supplement also known by street address as 3022 Eldora Lane;

23) Robert E. & Dixie Lentz, Lot 12 Block 3 Linda Vista 3rd Supplement also known by street address as 6203 Raelene Court;
24) Gary W. & Dalphine Hein, Lot 5 Block 2 Linda Vista 3rd Supplement also known by street address as 3020 Eldora Lane;
25) James A. & Linda K. Papke, Lot 14 Block 3 Linda Vista 3rd Supplement also known by street address as 6111 Raelene Court;
26) Larry Fox, Lot 4 Block 1 Linda Vista Subdivision also known by street address as 3408 Eldora Lane;
27) Twite Family Partnership, Linda Vista Executive Golf Course Book 336 Page 807 Micro;
28) Lincoln D. & Virginia Rudolf, Lot 12 Block 2 Linda Vista 3rd Supplement also known by street address as 3005 Eldora Lane;
29) Howard Lemm, Lot 8 Block 2 Linda Vista 3rd Supplement also known by street address as 3008 Eldora Lane;
30) Maureen M. Hansen, Lot 15 Block 2 Linda Vista 3rd Supplement also known by street address as 3015 Eldora Lane;
31) Lloyd A. & Mary C. Twite, Lot 10A Block 2 Linda Vista 3rd Supplement also known by street address as 3000 Eldora Lane;
32) Youssef & Judith Lokeh, Lot 1 Block 2 Hilltop Manor Addition also known by street address as 2945 Hilltop Drive;
33) R. Scott Wilson & Kasandra L. DiMaggio, Lot 12 Block 4 Linda Vista also known by street address as 3430 Lloyd Court;
34) Terri L. Muddiman, Lot 18 Block 2 Linda Vista Subdivision also known by street address as 3324 Raymond Court;
35) Douglas R & Leslie Klotthor, Lot 14 Block 2 Linda Vista 3rd Supplement also known by street address as 3011 Eldora Lane;
36) Edmund F.(Jr.) & Donna M. Sheehy, Lot 2 Block 2 Linda Vista 3rd Supplement also known by street address as 3102 Eldora Lane;
37) Jerrold G. & Jolee C. Cooley, Lot 16 Block 3 Linda Vista 3rd Supplement also known by street address as 6105 Raelene Court;
38) Dale L. & Janice M. Wingo, Lot 1 Block 2 Linda Vista 3rd Supplement also known by street address as 5901 April Lane;
39) Kathleen A. Cole, Lot 1 COS #1757 also known by street address as 3161 Lamoreux Lane;
40) Mildred G. Lamoreux, Lot 2 COS 4129 also known by street address as 3149 Lamoreux Lane;
41) Michael F. & Cheryl Minnick, Lot 6 Block 4 Linda Vista 3rd Supplement also known by street address as 3221 Paul Lane;
42) Marianna K. Molenda, Lot 3 COS 4129 also known by street address as 3162 Lamoreux Lane;
43) James C. & Cheryl Hornstein, Lot 7 Block 2 Linda Vista 3rd Supplement also known by street address as 3010 Eldora Lane;
44) Brenda & William Elvey, Lot 3 Block 1 Linda Vista Subdivision also known by street address as 3340 Eldora Lane; and
45) Frank G. & Sandra L. Damaske, Lot 11 Block 3 Linda Vista 3rd Supplement also known by street address as 6205 Raelene Court.

The Easements were returned to Jesse Sattley, RSID Coordinator, for further handling.

Construction Easements

The Board of County Commissioners signed Construction Easements between Missoula County and the following property owners for the purpose of constructing sanitary sewer improvements over, under and across a portion of the property described, as per the terms and conditions set forth, for the amount shown, and will terminate upon completion of the construction of sewer improvements:

1) Edward E. & Irene Mosier, Lot 18 Block 4 Linda Vista also known by street address as 6113 Helena Drive, for a payment by the County in the amount of $2,001.00;
2) Gregory H. & Deidre Frame, Lot 13 Block 2 Linda Vista 3rd Supplement also known by street address as 3009 Eldora Lane, for a payment by the County in the amount of $301.00 which includes compensation for completion of sewer main installation;
3) Mark C. & Dale Kindred, Lot 7 Block 1 Linda Vista Subdivision also known by street address as 3405 Helena Drive, for a payment by the County in the amount of $501.00 which includes compensation for tree removal;
4) Mary O'Connell, Lot 6 Valley Vista also known by street address as 3000 Putter Court, for a payment by the County in the amount of $1,001.00 which includes compensation for completion of mainline installation;
5) Jean Thompson, Lot 11 D Massey McCullough Acres, for a payment by the County in the amount of $1,000.00; and

6) Barney C. White, Lot 6 A COS #995 also known by street address as 3163 Lamoreux Lane, for a payment by the County in the amount of $301.00 which includes compensation for verification of hook-up.

The Easements were returned to Jesse Sattley, RSID Coordinator, for further handling.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chair Fern Hart. Also present was Commissioner Barbara Evans.

HEARING: CONTINUANCE OF 0.5% LOCAL OPTION MOTOR VEHICLE FEE IN FY'95

Fern Hart read the following resolution:

WHEREAS, in accordance with MCA 61-3-537, a County may impose a local vehicle tax on vehicles subject to a property tax under 61-3-504(2) at a rate of up to 0.5% of the value determined under 61-3-503, in addition to the 2% tax imposed under 61-3-504(2); and

WHEREAS, MCA 61-3-537 provides as follows:

1. A local vehicle tax is payable at the same time and in the same manner as the tax imposed under 61-3-504(2) and is distributed in the same manner, based on the registration address of the owner of the motor vehicle.

2. The governing body of a county may impose a local vehicle tax for a fiscal year by adopting a resolution before July 1 of the fiscal year, after conducting a public hearing on the proposed resolution; and

WHEREAS, the Missoula Board of County Commissioners has held a hearing on June 22, 1994, duly noticed in accordance with MCA 7-1-2121, on the question of continuing the assessment of this additional 0.5% fee in FY '95, commencing July 1, 1994.

NOW, THEREFORE, BE IT RESOLVED, that the Missoula Board of County Commissioners finds it in the public interest to continue to assess the additional 0.5% local option motor vehicle tax, maintaining the motor vehicle tax at 2.5% of the average trade-in or wholesale value, effective July 1, 1994.

The hearing was opened to public comment.

Don Stinger, 245 Davis, asked if a portion of this money could be used to upgrade north Reserve Street? He said he has watched Reserve Street grow since 1952.

Barbara Evans said she wished that were possible, but there may be an additional funding source for the Reserve Street project that will help to reduce the impact on the public.

There being no further comment, the hearing was closed to public testimony.

Barbara Evans moved and Fern Hart seconded the motion to adopt the resolution to continue the 0.5% local option motor vehicle fee in FY'95. The motion carried on a vote of 2-0.

RESOLUTION NO. 94-068

The Board of County Commissioners signed Resolution No. 94-068, a resolution to continue the 0.5% local option motor vehicle fee in FY '95.

HEARING: MCCAH PROGRAM - 1ST TIME HOMEBUYER - RUSSELL PARK

Fern Hart explained that a first time homebuyer in the Missoula City-County HOME Program found a home in an area which had been declared as being in the floodplain. While the long-standing home was not considered to be in the floodplain, a portion of the property is. No action is required on the part of the Commissioners other than to hold a public hearing and notify the public that a participant in the HOME Program is proposing to buy a home in the floodplain.

Bud Hettich, Office of Community Development, directed attention to an aerial photograph from the Corp of Engineers of the 1980 flood in Patty Canyon. The property in question was not affected by the 100-year event. The floodplain map shows a larger flooded area. FEMA recommended that the staff use their best

judgment even though there are discrepancies between the map and the aerial photo. The aerial photo clearly showed the property in question unaffected by the 100-year event. A flood insurance study reported that the event was more than the 100-year event. It was considered to be greater than the 100-year event.

Fern Hart opened the hearing to public comment. There being none, the hearing was closed to testimony. No action was required by the Commissioners other than to hold a public hearing.

HEARING: CREATION OF RSID NO 8916 - MAINTENANCE OF EL MAR ESTATES WATER AND SEWER SYSTEM

Fern Hart stated that there have been questions and letters received by the Commissioner's Office relative to this RSID.

John DeVore, Administrative Officer, explained that as the El Mar Estates water and sewer system was developed over the years, portions of the systems were constructed through various RSIDs approved by the Board of County Commissioners. Various portions of the system were paid for by the developer, Elmer Frame. In the early 1980's, discussions were held relative to who owned the system because portions of it were constructed with private funds and public funds. When the New Meadows subdivision was added to the El Mar Estates system, this issue came to a head. Lloyd Twite, the developer of New Meadows, paid Elmer Frame a hookup fee at this time. Through negotiations with Elmer Frame and the County, the total system was transferred to County ownership to be under one administration. Elmer Frame also paid a portion of the hookup fee relative to the construction of the sewer and water system. This system would be held in trust by the County to work on the resolution of some problems with the water, and in particular, the sewer system. The problem with the sewer system was an inadequate holding facility in the number 3 cell and not sufficient land for spray irrigation.

When the County assumed ownership, there were a lot of discussions with the El Mar Estates homeowners association in terms of how the system was being operated and whether or not there would be any changes in that at that time. The County tried to work with the system, operating on the premise that if its not broken, don't try to fix it. The County contracted with the El Mar Estates homeowner's association to operate the system on behalf of Missoula County. Also during this time, there was a lot of consternation on the part of the residents because of another RSID that was going to be implemented to pay for the cost of repairing the system. This had to do with the acquisition of Tract GG, a 38 acre parcel purchased from Doug Miller to add to the land base for spray irrigation. The association was concerned that the County would use the RSID to purchase the property for spray irrigation; if the system was no longer needed, they felt that the County would end up with the 38 acres of prime land that could be subdivided. The County negotiated with the residents to have the association purchase the property from Doug Miller. The County, through the RSID, would purchase a perpetual sewer easement on this property. The 38 acre asset would be retained by the homeowners' association.

During the course of the last year, there has been a lot of discussions with the homeowners' association. There has been controversy in the association in the last few months. By mutual consent, the County and the homeowners' association decided that the County would assume the operation of the system. This is not foreign to the County; the County has operated the water and sewer system in Lolo since 1971; the County currently operates the system that serves the Golden West subdivision. As time goes by, the system will become more complex, such as the testing requirements.

One of the questions asked was what happened that made the Commissioners decide to create an RSID to operate this system. Because of the controversy in the homeowners' association and because of the growth issues in the County, it was decided by mutual consent that the County would move towards operating this system. Also, the system has become big business in terms of the level of resources required to operate the system. With the changes occurring in this area, it was felt that this would be a more efficient way to operate the system. The association currently charges a monthly fee of $25. The $25 includes the cost of operating the water and sewer system, street lights, fire hydrants, and parks. The Board of Directors of the homeowners association indicated that $23 out of the $25 monthly fee is associated with the operation of the sewer and water system.

It will be necessary to work out the details in terms of major repairs to the system: would this be the responsibility of the homeowners via another RSID or would there be an assessment before the RSID is created? He said they will be meeting with the homeowners association next week to work out these details. The association currently has funds held in trust in three Certificates of Deposit and capital reserves collected over the years. These funds are approximately $45,000 The County will work through the capital reserves to determine what portion belongs to the water and sewer system and what portion belongs to the parks. This money would be transferred to the RSID that would administer or operate this system. This would remain as a capital reserve which would be used in the case of any major failures in the future.

He said to his knowledge and to the knowledge of the engineers, DJ&A, there are no major repairs. The system has been well maintained . As a matter of policy, the Board of County Commissioners require a capital reserve so that if there is a major pump failure, there are resources on hand to bring things back on line.

He said the estimated $23 a month was the current rate the residents were being charged. He said the County's intent was to run the system the first year with these rates. There are approximately 484 users on the system. At $23 a month, this generates approximately $136,000 a year. At the end of the first year, an assessment will be made as to whether or not the rates need to be increased, remain the same or even reduced. This would be done in concert with the recommendations of the engineers. The rates compare favorably with the system in Lolo which has approximately 700 users; the monthly rate is approximately $18 per month.

Regarding the question relative to the County's administrative fee, if any, he said the County currently does not charge an administrative fee for the operation of the water and sewer systems. The only future administrative fee that has been discussed was dependent upon the County operating more systems. As the County takes on the operation of more systems, it may make sense to 1) have a higher level of engineering expertise on staff ; 2) have a contract with an engineering firm that would be available for technical assistance to the operators; or 3) have an operator on staff that could be able to provide relief assistance to the operators that operate the systems. The Board's position is that if there was an administrative fee, no one would be singled out and the fee would have to be in direct relationship to the system. A fee has been discussed, but nothing is slated to immediately go into affect.

Another question was once the RSID went into affect, could the association regain control of the maintenance if they so desired? Perpetual maintenance districts are created at the discretion of the Board of County Commissioners. There may be no reason why this position couldn't be changed in the future if the case warranted it.

Another concern was what precautions would the County take to prevent the City of Missoula from taking control of the water and sewer system? The water and sewer system is owned by Missoula County; the only way the City could gain control of the system would be for them to buy the system. The Commissioners would have to make the determination to sell the property. Because the system is an asset of the County, public hearings would have to be held on this issue. Everyone, including the City of Missoula, recognizes that the sewer system in El Mar Estates is state of the art. This system was developed in the late 1960's, early 1970's. It is now recognized that this is how waste water should be handled, rather than dumping it into the river. There would be no public health or environmental reason to stop doing this. The City of Missoula and other systems around the country will have to look at land application systems in the future. The EPA is pretty serious about discharging into water ways.

Another concern related to future rate increases. He said the County looks at the actual cost of operating the systems; the fee is based on these costs. In Lolo's case, in the last 10 years, there have only been two increases. Both Lolo and El Mar's fees are lower than Mountain Water or the City of Missoula. The budget will be opened to public comment. He said the County would try to maintain the same relationship with the El Mar Estates homeowners association as it currently has with the residents in Lolo in terms of gaining their advice and input in the budget.

He said Doyle Riley has been the operator of the system for about 16 years. Mr. Riley is recognized as a good operator by the County, the Water Quality Bureau and the State Health Department. He said it was the County's intent to continue to have Mr. Riley as the contract operator. The contract is being drafted. Mr. Riley has a vested interest in the system as he lives in the area.

He stated that there were no letters of protest received from the residents.

Fern Hart opened the hearing to public comment relative to RSID No. 8916 for the maintenance of the El Mar Estates water and sewer system.

Jack Jergens, 9225 Grouse in El Mar Estates, wondered why the County was taking over the system when it would run with the same personnel? Why does the County have to come in and take over the system?

Fern Hart explained that there is a portion of the whole operation that is County funded. The maintenance should be current and up-to-date with the new standards. She stated it was her understanding that the homeowners welcomed the County in this matter.

Jack Jergens stated that this was news to him. This was not what he had heard from the residents in the area. He said he was able to attend some of the board meetings, but wasn't able to attend the public meetings due to illness. He said everything has run so well for 18 years, why do they have to change?

Fern Hart said she assumed that the board voted in favor of the issue.

Jerry Duffy, 8280 Pheasant Drive, wondered why the County wanted to take over the system when it is running well?

John DeVore explained that the system is County-owned; it is not a private water and sewer system owned by the homeowners. The County ultimately has responsibility as to how the system is operated. In the early 1980's the decision was made to work with the homeowners to correct the deficiencies in the system; it was also decided that the homeowners association would operate the system. In the last year, there has been a lot of controversy and disagreements within the board. There have been some individuals who have sat on the board for a lot of years, but no longer sit on the board. The individual who did the bookkeeping for years is retiring. There were concerns relative to how the bookkeeping system would be maintained in the future. Also, not everyone has been paying their bill on time or voluntarily. Other options were explored relative to this problem. The Commissioners took the position that if there was a situation where controversies and where the primary focus had shifted from the sewer and water system, the time had come for the County to assume the operation of the system. The homeowners association board members also wanted to know what the County's position was on the parks, the street lights and the fire hydrants. According to the board's records, approximately $2.00 of the monthly fee goes to maintain the parks, street lights and fire hydrants. The homeowners association requested that the County look at the creation of another maintenance RSID for the street lights, fire hydrants and parks. If the County created the RSID, the homeowners association wanted to know if the County would entertain a contract with the association to continue the maintenance of these. He indicated to the board that this was something the County would look at. Regarding the reasons why the County decided to assume the operation of the system, he said it seemed like the right time to try a different way to collect the fees. There seemed to be a willingness on the part of the board to talk about it. He said not everyone was in favor of the proposal even though the County has owned the system for a long time. There is still a certain amount of distrust on the part of the residents. Some people look at this as a bad thing. Even though the association has been the operator of the system, the County staff has worked with the association for years to try to resolve various issues.

Fern Hart said formerly, it was up to the board members to bill and to collect the dues. When some residents were delinquent, the board members would have to try to keep after these people. She stated that if an RSID was set up, the dues would be billed on the property tax bill and would be collected through the County. If this is delinquent, the issues are easily enforced.

John DeVore said in reviewing three years of financial statements, the annual revenue has typically been under $105,000 at $23 a month. The annual revenue should be approximately $136,000. Historically, when an association runs a utility, there is no way of collecting past due revenue other than shutting people off from the utility. When a utility is on the tax bill, no one has to file liens, go to small claims court, etc.

Jerry Duffy said the Association did not vote on the issue of the County taking over the sewer and water system.

Fern Hart said this was her misunderstanding.

Jerry Duffy said the controversy that occurred, occurred between board members; it had nothing to do with the system. There are competent people to take over the system. He said nothing has ever been decided relative to setting up an RSID for the parks.

John DeVore stated he didn't say there was vote. The board members had discussions of whether it would be feasible to create a maintenance district to collect the fee for fire hydrants, street lights and parks. Questions were raised relative to how other neighborhoods do this.

Jerry Duffy said he didn't find any reference to this in any meeting minutes.

John DeVore said the meetings did occur.

Fern Hart said a board member may have asked if this was a possibility. It wasn't that this would definitely happen, it was simply a question of possibility.

Jerry Duffy said minutes are taken at all of the meetings; no mention of this was in the transcripts. He said he was not against the maintenance RSID, but he wondered why the County was going to take it over now.

Fern Hart said an important issue seems to be the collections. The collections are lower than what they should be. This is significant.

Jerry Duffy said only one or two people have been late on their dues. However, when their utilities were shut off, they paid.

Fern Hart said the uncollected dues represented a significant amount. She asked if this was an intent to create?

John DeVore said the protest period was over. There were no protests.

Barbara Evans wondered if the rest of the folks in the neighborhood were as concerned? She wondered why no one signed a protest?

Jerry Duffy said he wasn't opposed, but just wanted to know why the County was taking over the system at this time and who was doing it.

Barbara Evans said there are park districts that have been established. The folks are levied on their tax bills, but the neighborhood association's board runs the maintenance of the park. The County merely pays the bill. The County does not take over the park, nor does it desire to.

Jerry Duffy wondered if the salaried people were included in the estimated cost.

Fern Hart said this is all part of the RSID.

Jim Erhart said he has lived in this area for over 18 years and has served on the board three times. He couldn't recall when the County in this time had ever expressed any desire to have anything to do with the system during the time when the association was having problems. These problems are over. There has been a previous RSID for this system and the association bought land for the system and upgraded the system as well. The board has done an excellent job running the system. He wondered if the County could do as well.

Barbara Evans said this isn't a desire to insult the board in El Mar. It will be easier to collect the funds for the board. There is the potential of having the board continue to run the system.

John DeVore said there have been discussions relative to continuing a similar situation as the residents of Lolo. Typically, people are interested in where the money is going and any kind of fee increases. He said it is the County's intent to work with the homeowners on these issues. The "user" of the system always must be in the loop to give input when making changes or adjustments in these systems. The people who actually operate the system would work for the County versus the homeowners association. Approximately 484 homes are served by this system.

Barbara Evans said the County has not received a single protest.

Jim Erhart said many of the people did not come to today's hearing. He said he did not personally have objections to the County running the system if it is run the way the homeowners association ran it. He said the County will take away the association's one means of collecting money. There will be no further mechanism to collect the dues for the parks and lights. The County will not shut the utilities off.

John DeVore said the dues are paid on the tax bills so the shut off mechanism will not have to be used to collect the dues. If taxes aren't paid, the property will end up in a tax deed situation. He said discussions relative to the collection of dues led to discussions about the ease of collecting by means of an RSID. Street light districts are based on the exact amount of the power bill. The bill comes directly to the County for payment. The County collects the money for payment. There are no other costs associated with a lighting district other than the power bill.

Fern Hart said it is a very serious thing when the taxes are not paid.

Jim Erhart wondered if there was a way to allow the people to pay month by month instead of at the end of the year?

Fern Hart said there are billing and collecting costs associated with monthly billing. The sum would be in a lump sum on the tax bill.

Jim Erhart wondered if this was really going to work. Would the money ever really be collected?

Fern Hart said they would have to pay this RSID at the same time they paid their property taxes.

Jim Erhart the board members will be asked to take care of the deficiencies from the homeowners.

John DeVore said everyone is assessed the monthly fee in an RSID based upon the number of parcels in a district. If a certain portion of the homeowners within a particular district do not pay the fee, that is not counted against all the other homeowners. The liability stays with that property owner until a resolution is

made. All the sewer and water district's collected funds go into a district fund; there is no cash flow problem. The deficiencies of a district are not passed onto other homeowners in that district.

Jim Erhart wondered who would pay for those that don't pay?

Michael Sehestedt, Deputy County Attorney, explained that the RSID revolving fund will advance the money that represents what wasn't paid in. At the end of 36 months of delinquency, the County makes an application for tax deed. If they don't pay the taxes, the County will auction the property. The proceeds of the sale of the property will be dispersed first to the RSID to pay back the revolving fund. Since non-payment of the assessment is just like non-payment of the taxes, this will provide the basis for taking and selling the property. Historically, the taxes are ultimately paid. The money always comes out of the assessed property and not from the other people in the district.

The association's enforcement mechanism of turning off the utilities is theoretically immediate. However, while the County's methods take a little longer, the money is collected 100%.

He said at $23 a month for 484 residents, the County should collect in excess of $130,000. Based upon the homeowners books, over the last three years, approximately $105,000 has been collected per year. This is an 80% collection rate. The users that are paying are actually subsidizing non-payment and collection costs.

Jim Erhart referred to other money that has been collected by the homeowners association

John DeVore said this money is approximately $45,000.

Jim Erhart said this money belongs to the El Mar homeowners because they are the ones who collected it. He stated that it was not right for the County to take this money.

John DeVore said it was not the intent of the County to take all of the money. It is the County's intent to take what is associated with the capital reserve account for the water and sewer system. The contract between the County and the homeowners association in 1987 required that the books be separated between the operation of the homeowners association and the operation of the water and sewer system so that the exact expenses and revenue associated with the system could be kept separate. He said he relied on information from the board. He said it was not his intent to place a demand on the whole $45,000; it was his intent to discuss what portion of the $45,000 is relative to the capital reserve to the water and sewer system. This has not been discussed.

Barbara Evans stated that this money would be put in reserve for the El Mar system.

Jim Erhart said they need money to pay for the upkeep of the lights and parks. Just to have the parks mowed and watered is $12,000 a year.

Barbara Evans said if the board is not getting enough money for this portion of the services, then the fees may need to be increased.

Jim Erhart said they have had enough money in the past. However, if the County takes $23 a month to operate the system, then they will have nothing left to operate the parks and lights.

John DeVore clarified the $23 a month; the board provided figures that out of $25 per month, $23 was associated with the cost of running the water and sewer system. $2 a month was associated with the parks and street lights. If there was something wrong with the figures, this can be hammered out before August 1st.

Jim Erhart asked John DeVore to be present at a Board meeting on June 28th.

Carlene Brauer, New Meadows resident, stated that the New Meadows homeowners association disassociated from the El Mar Estates homeowners association two years ago. The residents have been billed $23 a month for the past two years for sewer and water. She said the biggest concern expressed by the residents of New Meadows has been the lack of information. The El Mar residents have known about the RSID through their newsletter. She stated she didn't know if she was against it because she didn't know anything about the RSID. It is not that the New Meadows residents do not care, but they have not had any information regarding this.

She wondered who would paid for any major repairs or additions to the system? Some members of the El Mar association do not want the County to use a portion of the $45,000; however, the New Meadows homeowners have paid $23 a month in the past. They should not have to pay an additional amount for any upgrades in the system. She said there are people in El Mar Estates and New Meadows who need to have these questions answered before the Commissioners make their decision. She said they received letters in

the mail today asking them to make sure that their June payments were in because this RSID had been approved; these must have been mailed yesterday.

Barbara Evans wondered what the outcome would be if the Commissioners postponed action on this issue?

John DeVore said if the RSID is not created within the next two or three weeks, there would be no reason to pursue the matter this year. The operation of the system would continue as it has in the past for the next year. If the RSID is not created in the next few weeks, there would not be adequate time to get the assessment rolls established and the contract with the operator.

Fern Hart said it takes quite a while to get every property listed and the detail ready for the tax bills in November.

John DeVore said the New Meadows homeowners were at one time members of the El Mar Estates homeowners association. There was a dispute between the two subdivisions over dogs. As a result, the New Meadows subdivision withdrew from the El Mar association. There was a differential charge to the New Meadows residents for water and sewer, but not for the street lights or park maintenance. A street light district was created in the New Meadows subdivision about two summers ago.

Fern Hart asked if the New Meadows residents objected to the RSID?

Carlene Brauer said she wasn't sure if they actually objected to the RSID; rather, they were not informed of the RSID. Even though the New Meadows residents are not a part of the El Mar Estates homeowners association, they are still affected by the RSID. They still pay for the water and sewer system.

Fern Hart said this will not change.

Carlene Brauer said she was not against the RSID, but the residents need to hear answers to their questions. The New Meadows residents should have had the opportunity to hear these answers before the decision was made.

Barbara Evans asked if the decision could be postponed until June 29th, one day after the homeowners association meeting?

Carlene Brauer said this would work provided the El Mar Estates homeowners association board invited the New Meadows residents.

Barbara Evans said the New Meadows residents could request a meeting at New Meadows.

John DeVore said the meeting on the 28th was not an association meeting; it is a board meeting. Only the board members would be in attendance. He said a community meeting could be held, but notices would have to be mailed.

Barbara Evans said it was clear that notices had been mailed to the 484 residences in this area. No protests were received. She said she was in a quandary as to what the residents wanted the Commissioners to do.

Jim Erhart suggested that the Commissioners table the matter for a period of one year to see if the problems could be ironed out. Previous problems have been worked out in time. The Board has always operated well.

Fern Hart said the homeowners are not losing anything. They will get a better collection system. The association has not collected as much as they billed. The operation of the system will not be negatively impacted by having a better collection system. The County can save the board the trouble of collecting the monthly dues.

Carlene Brauer wondered if the vacancies had been accounted for in the $105,000 figure?

Barbara Evans wondered if the residents present were concerned that they would have nothing more to do with the water and sewer system?

John DeVore said presently, El Mar Estates is the administering agency under contract with the Board of County Commissioners. The RSID would change the circumstances: the County would be the administering agency; the homeowners association would be an advisor.

Barbara Evans made a motion to create RSID No 8916 for the maintenance of El Mar Estates Water and Sewer System. For a period of one year, the County will continue to contract with the El Mar Estates homeowners association for administering the system. If, at the end of one year things are not running smoothly, the County will assume the administration of the water and sewer system.

JUNE 22, 1994 (CONT.)

Barbara Evans explained that by creating the district, the County would be able to collect the money. The El Mar Estates homeowners association board will administer the money and determine what will be done with the district. If the board cannot successfully run the district in one year, the County will assume running the district.

Michael Sehestedt said on one hand, if the district is created, it will exist with the amount that will be levied. Creating the district at this point simply creates a vessel. A budget will be developed through the budget process. If the district is created and a determination is made between now and the budget cycle that the current process of collection, accounting, etc., should be used, a maintenance budget would not be adopted for this year for this RSID; they will simply go on as they are. Over the year, negotiations could be held to come up with a solution. He said the Commissioners have two options: 1) either kill or table the proposal ; or 2) create the district. If the district is created, the budget process could be used to determine what and how much the County is going to do.

He said the motion should be either to create or table the proposal. Even if the district is created, there is still the possibility of addressing the other issues which would include the precise manner of operation.

He said if the board is charging $13,000 per year for the maintenance of the parks and lighting, it is apparent that they are significantly overcharging the New Meadows residents.

John DeVore said the water rights for the well are in the name of Missoula County; the sewer system is in the name of Missoula County. Missoula County ultimately has the responsibility for the systems. When there were problems with the third cell in 1982, the County was invited to participate in solving the problem because the Board of County Commissioners was one of the owners of the systems. Because of this, Missoula County is now the sole owner of the system. The County tried hard to work with the association to find a solution to the problems. During this time, concerns were expressed by the residents that they would not have a say in the operation of the system. This issue was avoided at this time and the operation was allowed to continue under contract with the homeowners association. He said the Commissioners need to make the decision either to continue this contract and current operation and accept the risk of a third party operator, or create the RSID to take over the operation of the system. He said there is no way to have everyone in the community feel comfortable. This is not even "do-able" within the budget process.

Pat Hasty, 8805 Warbler, a past member of the board, said this district is a good idea and would solve the problem of collecting the dues. He said they collected between 80-85% of the dues. Otherwise, the board members would have to collect the dues at their own expense; they were not paid to do this.

Fern Hart said the collections of the dues will get done through the RSID process and the association will not lose money. If one resident does not pay their dues, the rest of the residents will not have to pay for it. She wondered if the reason for the residents' objections to the RSID was that they liked to play with the system?

A member of the audience stated that the residents' objections stemmed from a distrust of government.

Fern Hart thanked the individual for finally spelling out the problem. She said the New Meadows residents will have more justification under the proposed system than the existing one.

Carlene Brauer said there are 63 other homeowners who don't know the answers to these questions.

Fern Hart suggested that Ms. Brauer inform her neighbors.

Barbara Evans withdrew her original motion.

Barbara Evans moved and Fern Hart seconded the motion to approve the creation of RSID No. 8916 for the maintenance of the El Mar Estates Water and Sewer System based on the finding that there have been no protests received. The motion carried on a vote of 2-0.

Barbara Evans explained that she understood that there are people who don't trust government. She said the Commissioners care about what the residents want--but they can't please everyone. Collecting money at their own peril is not a good thing for the residents. She suggested that the residents work with John DeVore in the budget process. Based on this, John will take a recommendation to the Commissioners as to whether or not the County will contract with the association to administer the system. She said she didn't make the motion with any desire to hurt the residents, rather, she wanted to do what was best for the County. Without a single protest, it was very hard not to do what the County said they were considering.

There being no further business to come before the Board, the Commissioners were in recess at 3:05 p.m.

JUNE 23, 1994

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

Audit List

Commissioners Hart and Evans signed the Audit List, dated June 21, 1994, pages 4-37, with a grand total of $281,798.37. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Lease Contract

The Board of County Commissioners signed a Contract between Missoula County and Missoula Correctional Services, Inc., for the purpose of securing space for a pre-release center located 304 West Broadway, consisting of 7,000 square feet, as per the terms set forth, for a total amount of rent of $39,600.00, commencing July 1, 1994, through June 30, 1995.

Extension Letter

The Board of County Commissioners signed a letter to Andy Fisher of Eli & Associates approving a filing extension for Anderson-Bucklew Acres making the new filing deadline August 25, 1994.

Consent to Assignment of Permit and Missoula County Permit

The Board of County Commissioners signed their Consent to the assignment and transfer of the Missoula County Permit for the Lease of Canyon View Park by Joe and Karen Smith to Frederick M. Stowell Jr. and Patricia J. Stowell, who have purchased the property at 9480 Singletree Lane from the Smiths. The Commissioners then signed a Missoula County Permit, agreeing to permit the Stowells to use the parcel known as Canyon View Park in Canyon Village No. 2 for the purpose of providing pasture, as per the terms and conditions set forth, effective for a period of ten years, renewable at the option of the County. The documents were returned to Scott Hollenbeck at Properties 2000 for further signatures and handling.

Other items included:

> The Commissioners approved a request from Kathleen Larum to exclude their property located at 3225 Eldora Lane (Linda Vista Second Supplement, Lot 1, Block 8) from the Lower Miller Creek/Linda Vista Area Sewer RSID No. 8453, as they have an individual STEP tank, pump, and drainfield and will connect to the Linda Vista interceptor line at their own expense.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 24, 1994

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

Indemnity Bond

Chair Fern Hart examined, approved and ordered filed an Indemnity Bond naming Missoula County Fire Protection Association as principal for warrant #1065, dated March 7, 1994, issued on the Greenough-Potomac Fire Department fund in the amount of $360.00 now unable to be found.

Vickie M. Zeier
Clerk & Recorder

Fern Hart, Chair
Board of County Commissioners

JUNE 27, 1994

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

DAILY ADMINISTRATIVE MEETING

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

JUNE 27, 1994 (CONT.)

Agreement

The Board of County Commissioners signed an Agreement between the Missoula City-County Health Department and the Frenchtown School District for the purpose of providing school health services including a Public Health Nurse, as per the job functions and terms set forth, for the period from August 22, 1994 through June 3, 1995, with the amount of money paid to the Health Department by the School being $28,538.00. The Agreement was forwarded to the Health Department for further signatures and handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Britt Finley, an independent contractor, for the purpose of facilitating the Health Services Division in issues identification, establishing ground rules for future group development work and follow-up work as needed, as per the terms set forth, for the period commencing June 29, 1994, and concluding by September 30, 1994, at a rate of $110.00 per hour for Ms. Finley and companion facilitator, John Means, not to exceed 12 hours and $1,320.00. The contract was returned to the Health Department for further signatures and handling.

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit, agreeing to permit Janet Marie Hilley of 22600 Hill Road in Clinton, MT to encroach upon a portion of County right-of-way being in the SW 1/4 of Section 24, T. 12 N., R. 17 W., and shall be limited to the existing well and water lines, effective for a period not to exceed ten years, renewable at the option of the County.

Construction Easement

The Board of County Commissioners signed a Construction Easement between Missoula County and the Linda Vista 5th Supplement Homeowners Association for the purpose of constructing sanitary sewer improvements over, under and across a portion of the property, the common area (utility lot) Linda Vista 3rd Supplement Plat, as per the terms and conditions set forth, for the sum of $1.00 and will terminate upon completion of the construction of sewer improvements. The Easement was returned to Jesse Sattley, RSID Coordinator, for further handling.

Other items included:

> the Commissioners appointed Heidi Christensen as a member of the Lolo Community Council until the School Election is held in April of 1997.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 28, 1994

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

DAILY ADMINISTRATIVE MEETING

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

Contract

The Board of County Commissioners signed a Contract, dated June 1, 1994. between Missoula County and JTL Group, Inc., for the purpose of the construction of street improvements on portions of Humble and Sundown Roads (RSID No. 8457), as per the terms set forth, for a total sum of $92,554.00, to be fully completed by November 1, 1994. The Contract was returned to Jesse Sattley, RSID Coordinator, for further handling.

Professional Engineering Services Agreement

The Board of County Commissioners signed a Professional Services Engineering Agreement with Druyvestein, Johnson & Anderson, for the purpose of professional engineering services for the preliminary planning phase of developing a residential subdivision at Gleneagle at Grantland, as per the items and terms set forth, for compensation in the amount of $34,900.00.

Agreement Modification

Chair Hart signed Modification No. of the Agreement between Missoula County and the Montana Department of Health and Environmental Sciences concerning AIDS prevention and intervention (DHES No.

340238) in order to update the contract language and forms and add funding for SFY 1995, as per the items and terms set forth. The Modification was forwarded to DHES in Helena.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between the Missoula City-County Health Department and the Missoula County Sheriff's Department for participation in the Driving Under the Influence (DUI) Enforcement Team as outlined in the Attachment to the Contract, as per the terms set forth, commencing July 1, 1994, through June 30, 1995, for total compensation up to $6,000.00. The Contract was returned to the Health Department for further signatures and handling.

Policy Statement

The Commissioners signed Policy Statement No. 94-A, dated May 2, 1994, the Ownership and Maintenance of Computer Hardware - Special Funds, a companion policy to Policy 93-B, Computer Hardware and Software Purchase Policy, for the purpose of addressing the ownership and maintenance of computer hardware purchased by special funds. as per the options set forth in the Policy.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

JUNE 29, 1994

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

Audit List

The Board of County Commissioners signed the Audit List, dated June 28, 1994, pages 4-51, with a grand total of $422,271.83. The Audit List was returned to the Accounting Department.

Indemnity Bond

Chair Fern Hart examined, approved and ordered filed an Indemnity Bond naming B Dalton Book Store as principal for warrant #18610, dated January 19, 1994, issued on the School District #1 General Fund in the amount of $8.50 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Plat

The Board of County Commissioners signed the plat for Packwest Addition, a subdivision located in the NW1/4, Section 2, T12N, R20W, PMM, Missoula County, a total gross area of 20.46 acres, with the owner of record being Robert Massey. Cash-in-lieu of parkland was received by County Treasurer in the amount of $5,640.00.

Other items included:

> the Commissioners approved a request from the Fair Board to spend a portion of the FY'95 budget prior to its adoption in August for the purpose of purchasing a computer for the front office, a wire welder, seal coating, dust control, Race Office computer and track improvements, in the amount of $39,400.00--items which are needed to make the Fair and its facilities safer and more pleasant.

The minutes of the daily administrative meeting are on file in the Commissioners Office.

PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. Also present were Commissioners Ann Mary Dussault and Barbara Evans.

BID AWARD: DRILLING AND INSTALLING MONITORING WELLS IN MISSOULA VALLEY - WATER QUALITY DISTRICT

The bid award for the drilling and installing of monitoring wells in the Missoula valley for the Water Quality District was postponed because only one bid was received which was too high. Peter Neilsen the Environmental Health Supervisor said the Water Quality District will readvertise the bids in the fall.

CONSIDERATION OF WORNATH ORCHARD TRACTS, TRACT 9, AMENDED SUMMARY PLAT

Ron Ewart, Planner at the Office of Community Development, explained that Wornath Orchard Tracts is a proposed 2-lot division of a 3.54-acre parcel, located at the juncture of Evergreen and Wornath Roads (both of which are gravel), south of Blue Mountain Road in the SW 1/4 of Section 2, Township 12 North, Range 20 West. Lot 9A is to be 2.29 acres in size with an existing single-family home, barn, well, septic, horse pasture, and a gravel driveway that accesses Evergreen Road. Lot 9B is to be 1.25 acres; it is currently vacant except for an existing well house, and a new single-family home and septic system are proposed to be constructed. Lot 9B will also access to Evergreen Road.

The property is located within Zoning District #18, which does not give minimum lot size or density requirements. The Missoula Urban Comprehensive Plan, 1990 update, designates the area as "Suburban Residential" recommending a density of up to 2 dwelling units per acre.

The Office of Community Development staff recommended that the summary plat of Wornath Orchard Tracts, Tract 9 amended, be approved, subject to compliance with the following conditions:

1. Plans for grading, drainage, and driveways shall be approved by the County Surveyor prior to filing of the final plat. *Section 3-2, 3-4.*

2. The following statement shall appear on the face of the plat and in all instruments of conveyance:

   "Acceptance of a deed for lot within this subdivision constitutes assent of the lot owner to waive the right to protest a future RSID for any improvements, including upgrading, paving, or sidewalks to Evergreen Road and Wornath Road, and may be used in lieu of their signatures on an RSID petition."

   Section 5-2(5)(D).

3. Utility easements shall not be less than 20 feet in width unless a letter is submitted by the appropriate utility approving any narrower width. In addition to showing the location of the utility easement, the following statement shall also be shown on the face of the plat:

   "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities in, over, under, and across each area designated on this plat as "Utility Easement" to have and to hold forever."

   Section 3-5, 3-6.

4. A contribution of $50 per lot shall be paid into the large diameter hose fund of the Missoula Rural Fire District. *Comments of the Rural Fire Chief.*

VARIANCE REQUESTS:

1) SIDEWALK REQUIREMENT:
The developer requests a variance to Section 3-2(5) of the Missoula County Subdivision Regulations which states that sidewalks and pedestrian walkways shall be provided in all subdivisions and bikeways should be considered.

The variance request from the developer is as follows:

Wornath Orchard Tracts, Tract 9 Amended will add one family to the existing area. The lots in this neighborhood are large rural lots with no current sidewalk. Presently there is very little foot traffic and as such, no sidewalk is warranted. The addition of one family will have negligible impact on the amount of foot traffic.

This report recommended approval of this variance request for the above stated reasons. The RSID waiver statement includes sidewalk installation.

2) COUNTY GRAVEL ROAD STANDARDS
The developer requests a variance to Section 3-2(11)(B) of the Regulations which states that off-site roads shall meet County standards. Off-site roads which are not specifically and uniquely attributable to the subdivision and those of which the distance to the nearest publicly maintained paved road is greater than 500 feet are not required by regulation to be paved. Unpaved roads shall meet County gravel road standards, and these standards call for a 24-foot wide gravel road with proper drainage. Wornath Road and Evergreen Road

are between approximately 18-24 feet wide and appear in good condition, although they may not specifically meet the County standards for width.

The variance request for County road gravel standards is as follows:

Wornath Orchards Subdivision, Tract 9, Amended, will add one family to the existing road system. The existing road has been functioning well for a long time with no harm to the public. The addition of one home to this area will not adversely affect the road and does not warrant the widening of the isolated, narrower portions of this road. The owners of the Wornath Orchards Tract Subdivision, Tract 9 Amended lots would be willing to waive their rights to protest any future RSIDs regarding this road if the variance is granted.

The staff recommended approval of the variance request, if the condition regarding the RSID waiver statement for Evergreen Road and Wornath Road is adopted.

Tim Wolfe, Territorial Engineering and Surveying, said Josie Potter has owned this piece of property for the last 25 years. She is recently widowed and would like to build a new home on Lot 9B.

Fern Hart asked if there was an existing home on Lot 9A?

Tim Wolfe said this is Mrs. Potter's current home which will be sold.

Fern Hart asked if Horace Brown, County Surveyor, had any comments on the variance request relative to the gravel road?

Horace Brown said he didn't see a problem if they did the RSID waiver. Other subdivisions in this area have been required the same thing.

Barbara Evans asked if the applicant understood there was interest in the area for a dust abatement district or an RSID for the paving of at least Evergreen Road?

Josie Potter said Evergreen Road is a very sparsely traveled road. The dust in the area comes from Blue Mountain Road. Evergreen Road is not a thorough-fare road to anywhere.

Barbara Evans said by splitting this land, the applicant gives up their right to protest a future RSID.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve Wornath Orchard Tracts, Tract 9, amended, based on the findings of fact in the staff report and subject to the following conditions:

1. Plans for grading, drainage, and driveways shall be approved by the County Surveyor prior to filing of the final plat.

2. The following statement shall appear on the face of the plat and in all instruments of conveyance:

   "Acceptance of a deed for lot within this subdivision constitutes assent of the lot owner to waive the right to protest a future RSID for any improvements, including upgrading, paving, or sidewalks to Evergreen Road and Wornath Road, and may be used in lieu of their signatures on an RSID petition."

3. Utility easements shall not be less than 20 feet in width unless a letter is submitted by the appropriate utility approving any narrower width. In addition to showing the location of the utility easement, the following statement shall also be shown on the face of the plat:

   "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities in, over, under, and across each area designated on this plat as "Utility Easement" to have and to hold forever."

4. A contribution of $50 per lot shall be paid into the large diameter hose fund of the Missoula Rural Fire District.

The Commissioners also approved the variance to 1) Section 3-2(5) of the Missoula County Subdivision Regulations which states that sidewalks and pedestrian walkways shall be provided in all subdivisions and bikeways should be considered; and 2) Section 3-2(11)(B) of the Regulations which states that off-site roads shall meet County standards. The motion carried on a vote of 3-0.

HEARING: HILLSDALE ESTATES - PRELIMINARY PLAT

Ron Ewart, Planner at the Office of Community Development, explained that the hearing for Hillsdale Estates, Preliminary Plat, was continued from the Public Meeting on June 8, 1994. Hillsdale Estates is located next to the O'Brien Creek Meadows No. 2 subdivision. Previously, the subdivision was proposed as a 6 lot subdivision. The County staff as well as the OCD staff agreed that 6 lots were too many for the existing zoning. A revised plat proposal was received from the developer which proposed a 5 lot subdivision.

Wally Congdon, representing the developer, John Diddel, said the proposal was changed to reflect the concerns of the staff and the Commissioners.

The hearing was opened to public comment. There being none, the hearing was closed to public testimony.

Fern Hart voiced her appreciation for the developers consideration of the two zoning districts as well as retaining the no-build zones. This was a very responsible change.

Ann Mary Dussault asked about the Planning Board recommendations in the May 23, 1994 memo; did those recommendations still apply?

Ron Ewart said this was correct. There are seven conditions of approval and two variances. However, the Planning Board recommended that the variance request that Hollister Drive, the cul-de-sac, be paved 22 feet, be denied. The Planning Board voted to deny this request which would require Hollister to be paved to 24 feet. However, the Planning Board did recommend the approval of the variance to the sidewalk requirements.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the preliminary plat for Hillsdale Estates based on the findings of fact in the staff report and subject to the following conditions:

1. Grading, drainage, erosion control, street, and sight distance plans shall be approved by the County Surveyor. Hollister Drive shall be paved to 24 feet.

2. The developer shall develop an open space resource management plan and implementation program for the subdivision prior to filing of the final plat. The management plan shall address wildland urban interface fire protection issues, protection and enhancement of wildlife habitat and fisheries and weed control. The plan shall provide for the planting of a mixture of native shrubs and conifers within the easements to provide suitable habitat for wildlife. This plan shall be approved by the Board of County Commissioners.

3. The developer shall file Property Owner's Association Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State.

4. The Property Owner's Association Articles of Incorporation, By-Laws, and Covenants shall be approved by the Board of County Commissioners. They shall bear the certification of the attorney who prepared or reviewed them stating that such attorney is licensed to practice law in the State of Montana; that they contain the applicable provisions required by the Missoula County Subdivision Regulations, and any provisions upon which approval was based or conditioned; and that these provisions do not conflict.

5. The following statement shall be shown on the face of the final plat:

> "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever."

6. A fee of $50 per lot shall be paid into the large diameter hose fund of the Missoula Rural Fire District.

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

> "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a future RSID for any improvements to Blue Mountain Road and O'Brien Creek Road, based on benefit, and may be used in lieu of their signatures on an RSID petition."

Also, the Commissioners denied the request for a variance to Sections 3-2(3) and (5) which states that rural subdivisions shall be paved to 24 feet, but approved the request for a variance requiring sidewalks and pedestrian walkways shall be provided in all subdivisions. The motion carried on a vote of 3-0.

JUNE 29, 1994 (CONT.)

PUBLIC COMMENT

Charles McGrath, 4010 Sunrose Drive, stated that on April 2, 1994, his group submitted a petition for a water and sewer district to the Board of County Commissioners. At this time, they asked for a time table. He asked the County Attorney's Office to interpret MCA 7-13-222 which related to local government and utility services pursuant to a timetable in the creation of a water and sewer district. He expressed concern that the deadline would not be met to place this on the November ballot.

Barbara Evans stated that it was her understanding that the Elections Office had almost completed the verification of the signatures.

Michael Sehestedt, Deputy County Attorney, explained that there is no time frame. The provision referred to is specific to the initiative and referendum process as set out in MCA 7-13-303. At the April, 1994 meeting, the group was told that the hearing would most likely be in July. At this point, almost 900 names within the district have been established. The Elections Office is currently taking the precincts that were split by the lines and putting electors on either side of the line to have a total numbers of registered electors to determine whether or not there is the requisite 10%. This process is ongoing. It should be completed fairly soon, within the next few days. This would put the staff in the position of setting a hearing and publishing notice which is set by statute. The notice must be published two consecutive Sundays with the hearing following that next Wednesday. Once the hearing process has commenced, it must be completed within four weeks. It can be continued from time to time, but must be completed within four weeks. The County is then obligated to put it to a vote of the people no sooner than 75, no more than 90 days following the conclusion of the hearing. 90 days prior to the election would be August 10th; 75 days would be August 25th. The hearing will have to be continued for a couple of weeks to make the final decision not more than 90 days prior to the election. He said if the notice was published in next Sunday's paper, the election could not be held in the general election because it would exceed the 90 days. If the hearing was held August the 10th and 25th, then it could go on the general election ballot.

Fern Hart said she preferred the question be on the general election.

Charles McGrath agreed with this statement. The work involved in a special election would be too much.

A discussion ensued relative to the district boundaries. The boundaries do not follow the existing precinct boundary lines.

Charles McGrath asked what voter list would be used?

Michael Sehestedt said the current list being used is the same list as was used in the June primary election.

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

JUNE 30, 1994

The Board of County Commissioners met in regular session; all three members were present. The Commissioners attended a Growth Management Meeting in the forenoon. No Administrative Meeting was held.

Indemnity Bond

Chair Fern Hart examined, approved and ordered filed an Indemnity Bond naming L. N. Curtis & Son as principal for warrant #1059, dated March 7, 1994, issued on the Greenough-Potomac Fire Department fund in the amount of $280.07 now unable to be found.

Resolution No. 94-069

The Board of County Commissioners signed Resolution No. 94-069, a resolution of intent to change the service fee structure for the Seeley Lake Refuse Disposal District, as per the items set forth, setting the hearing date for July 27, 1994, at 7 p.m. at the Seeley Lake Community Center.