

JULY 1, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Evans was on vacation from July 1st through July 3rd.

DAILY ADMINISTRATIVE MEETING

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

Monthly Reports

Chair Dussault examined, approved and ordered filed the monthly reconciliation reports for Justices of the Peace, David K. Clark and Michael D. Morris, for month ending June 28, 1991.

Grant Agreement

The Board of County Commissioners signed a Grant Agreement between Missoula County and the Montana Department of Natural Resources and Conservation for the purpose of developing renewable resources and to ensure that the quality of existing public resources are not significantly diminished by these developments; also, the project will provide training and equipment to the Missoula Interagency Hazardous Materials Response Team (HAZMAT) to allow the Team to incorporate groundwater protection into their existing response procedures, as per the terms set forth, commencing on the first day of July, 1991 and terminating December 30, 1992, for a total payment not to exceed \$45,000. The Agreement was returned to Orin Olsgaard, DES Coordinator, for further handling.

Plat and Subdivision Improvements and Guarantee

The Board of County Commissioners signed the plat for Linda Vista 5th Supplement, Phase 6, the owners of record being the Twite Family Partnership. The Commissioners also signed a Subdivision Improvements Agreement and Guarantee between Missoula County and Lloyd A. Twite on behalf of the Twite Family Partnership for the improvements to Linda Vista Fifth Supplement, Phases Five and Six, which have not been completed as of the date of the filing of the plat, with the owner acknowledging that the remaining improvements must be completed within one year of the filing of the plat; and providing as security for completing these improvements, real estate located in the W 1/2 of Section 13, T12N, R20W, PMM, Missoula County, with a value of at least \$100,000.00.

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

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JULY 2, 1991

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 #13 (5/26/91 through 6/8/91) with a total Missoula County Payroll of \$359,242.09. The Transmittal Sheet was returned to the Auditor's Office.

JULY 2, 1991 (CONT.)Agreement

Chair Dussault signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences (DHES) for the purpose of performing detailed review of minor subdivisions (5 or fewer parcels) involving individual water and conventional individual sewage, multiple family sewer, and alternative and experimental sewer systems within Missoula County, as per the terms set forth, commencing July 1, 1991 and ending June 30, 1992. The Agreement was forwarded to DHES in Helena.

Notice of Hearing

Chair Dussault signed the Notice of Hearing on the County's proposed budget for FY'92, setting the hearings for July 24, July 25, July 26, and July 29 at the times noted in the Notice, at which time any taxpayer or resident of the County may appear and be heard for or against any part of the budget.

Contract

The Board of County Commissioners signed a Contract, dated June 1, 1991, between Missoula County and Montana Electronics, Inc. for maintenance of the County communications system, as per the items and terms set forth, through October 1, 1992.

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

Site Inspection

In the afternoon, Commissioner Dussault accompanied County Surveyor Horace Brown on a site inspection of Petty Creek Road for the request to alter a portion of the road.

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JULY 3, 1991

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

Audit List

Commissioners Dussault and Stevens signed the Audit List, dated July 2, 1991, pages 9-34, with a grand total of \$14,910.00. The Audit List was returned to the Accounting Department.

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:30 p.m. by Chair Ann Mary Dussault. Also present was Commissioner Janet Stevens.

BID AWARD: CRS-2 EMULSIFIED ASPHALT OIL - SURVEYOR

Ann Mary Dussault explained that this is a request to award a contract for 210 tons of CRS-2 emulsified asphalt oil. The bids were opened on July 1, 1991 at 10:00 a.m. with the following results:

Idaho Asphalt Supply Inc.	\$28,980.00	
		Plus \$25.69 frt/ton
Montana Refining Co.	\$21,000.00	
		Plus \$19.62 frt/ton

JULY 3, 1991 (CONT.)

Staff recommends awarding the bid to Montana Refining Company as the lowest and best bid. There is \$25,000 budgeted for Fiscal Year 1992. The County Surveyor will adjust the budget to reflect the \$120.00 necessary for this line item.

Horace Brown, County Surveyor, said he has had problems in the past with oil from this company, but it has been several years ago. He said he is willing to try the company again, but this will be their last chance. If he has problems with the oil, they will be dropped from any future bid considerations.

Janet Stevens moved and Ann Mary Dussault seconded the motion to award the bid for 210 tons of CRS-2 emulsified asphalt oil to Montana Refining Company in the amount of \$21,000 plus \$19.62 frt/ton as the lowest and best bid received. Motion carried on a vote of 2-0.

The Commissioners then signed an accord to authorize \$120 from the chipping oil line in order to buy oil for 1992.

DECISION ON PETITION TO ALTER PETTY CREEK ROAD

Ann Mary Dussault explained that she and Horace Brown had viewed the site on July 2 and that it would be in the best interests of everyone involved to alter this road.

Horace Brown said this is a change in the original position. The 60-foot easement is being moved to the new alinement and the old alinement is being vacated.

Ann Mary Dussault moved and Janet Stevens seconded the motion to alter Petty Creek Road as described in the action request. Motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:35 p.m.

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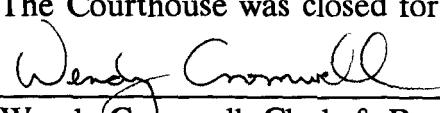
JULY 4, 1991

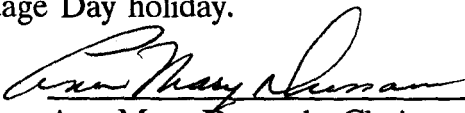
The Courthouse was closed for the Independence Day holiday.

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JULY 5, 1991

The Courthouse was closed for the Heritage Day holiday.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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JULY 8, 1991

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 Ronald J. Chase, as principal for warrant 33718, dated June 2, 1991, on the Missoula County School District #40 Fund in the amount of \$83.11 now unable to be found.

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JULY 9, 1991

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 because of illness.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 91-064

The Board of County Commissioners signed Resolution No. 91-064, a resolution to alter a portion of Petty Creek Road located in the NW 1/4 of Section 1, Township 13 North, Range 23 West, P.M.,M. for the purpose of improving traffic and changing the alignment to match the new bridge.

Resolution No. 91-065

The Board of County Commissioners signed Resolution No. 91-065, a resolution accepting real property from John E. and Myrna M. Nyberg, an easement for public road and all other public purposes, located in a portion of Lot 6, Block 2, Clark Fork Estates Phase 1 lying in the NW 1/4 of Section 14, Township 13 North, Range 20 West, Principal Meridian, Missoula County, for the Frey Lane Cul-De-Sac.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Thomas L. Payne for the purpose of maintaining the Art Museum grounds, as per the terms set forth, commencing July 1, 1991, through March 31, 1992, for a total payment not to exceed \$2,000.

Agreement

The Board of County Commissioners signed an Agreement for hazardous material emergency response between the Missoula Rural Fire District and Missoula County, for the purpose of securing the benefit of aid in hazardous material emergencies for the protection of life and property when Missoula County experiences an incident requiring additional expertise, equipment or personnel, as per the terms set forth, with Missoula County paying the sum of \$1,200.00 as a yearly response retainer.

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

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JULY 10, 1991

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.

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Terrance M. Brown, Administrator of District Attorney Trust, as principal for warrant 24728, dated April 23, 1991, on the Clerk of Court Trust Fund in the amount of \$450.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

JULY 10, 1991 (CONT.)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 28, 1991.

Memorandum

The Board of County Commissioners signed a Memorandum of Understanding among co-sponsors of Missoula Trails and Non-Motorized Transportation Plan, the City of Missoula, the County of Missoula, Lolo National Forest, and the University of Montana, whereby, the parties will cooperate to develop a comprehensive non-motorized transportation plan to provide long-range direction to a Missoula Trails program and guide future community development and redevelopment, as per the terms set forth.

Other items included:

The Commissioners made the following decision regarding the intersection at Mount and Eaton:

- the stop signs on Eaton will be reinstalled, and the stop signs on Mount will be left in place;
- no parking signs will be installed on the south side of Mount between Reserve and Eaton, and the center line will be moved further to the south on Mount between Reserve and Eaton;
- the speed limit on Mount and Eaton will be increased from 25 to 30 miles per hour to reflect the actual speed of the traffic using the road at this time; and
- the signage on the intersections will be reviewed annually and, in all likelihood, the stop signs on Mount will be removed no later than the time the lights are installed on Reserve and Mount; this is due to the fact that the traffic on Mount will significantly increase after the completion of the Reserve Street project.

A letter will be sent to all petition signers informing them of the decision.

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

WEEKLY PUBLIC MEETING

The meeting was called to order by Commissioner Janet Stevens. Also present was Commissioner Barbara Evans.

Fred Crisp from the Surveyor's Office presented his "You're Great" award to Barb Shubert, along with a cash present.

HEARING: PETITION FOR ANNEXATION TO FRENCHTOWN RURAL FIRE DISTRICT - MARELIUS PROPERTY

Janet Stevens said that a petition has been 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 has been checked and verified and 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 it meets the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory. The property to be annexed is described as "Plat A2 in Section 5, Township 14 North, Range 22 West, P.M.M., Missoula County, Montana, approximately 28 acres."

JULY 10, 1991 (CONT.)

Janet Stevens opened the Public Hearing and asked if anyone cared to testify. As there was no testimony, the hearing was closed.

Barbara Evans moved and Janet Stevens seconded the motion to annex the requested property into the Frenchtown Rural Fire District, all legal requirements having been met. Motion carried on a vote of 2-0.

Resolution No. 91-062

The Commissioners then signed Resolution No. 91-062, a resolution annexing the Marelius property to the Frenchtown Rural Fire District.

COS REVIEW: REQUEST FOR AGRICULTURAL EXEMPTION - THORSON

Marnie McClain, Deputy County Attorney, explained that an affidavit has been submitted requesting an agricultural exemption for a five-acre parcel owned by David and Christine Thorson and located adjacent to Linda Vista. The Thorsons wish to sell their house, which is located on Tract 2, but their buyer cannot afford to buy all five acres. Tract 2 is a proposed four acre tract and would be a remainder. Mr. and Mrs. Thorson originally intended to apply for the occasional sale exemption for the one-acre parcel until they learned from the Health Department that sanitary restrictions could not be lifted because of the high nitrate level in the ground water due to the drainfield problems in Linda Vista. At the present time the area which would become Tract 1 is being used as a horse pasture and Mr. and Mrs. Thorson would continue to use the property in this fashion. According to the Missoula County Surveyor's records, the Thorsons have not previously used any COS exemptions.

Janet Stevens opened the Public Hearing and asked if anyone cared to testify.

Mrs. Thorson said they would keep the agricultural exemption on the property until such time in the future as sewer is available for the property.

Barbara Evans informed Mrs. Thorson that an agricultural exemption could not be lifted without County Commission approval, and that approval is not automatically given.

There being no further testimony, the Public Hearing was closed.

Barbara Evans moved and Janet Stevens seconded the motion to grant an agricultural exemption to Mr. and Mrs. Thorson as requested, finding no attempt to evade the Montana Subdivision laws. Motion carried on a vote of 2-0.

Resolution No. 91-063

The Commissioners then signed Resolution No. 91-063, a resolution granting an agricultural exemption to David and Christine Thorson.

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

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JULY 11, 1991

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

JULY 11, 1991 (CONT.)

Audit List

The Board of County Commissioners signed the Audit List, dated July 10, 1991, pages 9-20, with a grand total of \$131,882.27. 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 Clark Fork Estates Phase Three, a subdivision located in Section 14, T. 13 N., R. 20 W., P.M.M., Missoula County, with the owner and subdivider of record being Clark Fork Estates, Inc.

Contract

The Board of County Commissioners signed a Contract between Missoula City-County Health Department and the Recovery Foundation 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, commencing July 1, 1991 and terminating on September 30, 1991, for a total payment not to exceed \$24,192.99. The Contract was returned to the Health Department for further signatures and handling.

Schedule "A" - Road Dept. Agreement

The Board of County Commissioners signed Schedule "A" to the Road Department Labor Agreement, listing the class of employment, description of items in the classification, and hourly wage rates by class, for the period from July 7, 1991, through June 30, 1992. The document was returned to John Pemberton in the Personnel Office.

Other items included:


The Commissioners designated Amy O'Herren of the Rural Planning Office as their representative to the group discussing the concept of a Western Montana Heritage Center at Fort Missoula.

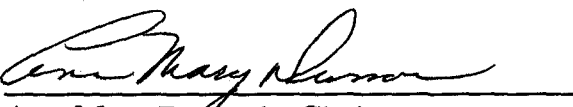
The minutes of the daily administrative meeting are on file in the Commissioners Office.

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JULY 12, 1991

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


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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JULY 15, 1991

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

JULY 15, 1991 (CONT.)Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Dana Graham as principal for warrant #26158, dated June 14, 1991, on the Clerk of District Court Trust Fund in the amount of \$200.00 now unable to be found.

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 Department of Health and Environmental Sciences, for the purpose of inspecting and testing small public water supplies to ensure their safety, commencing July 1, 1991 and ending June 30, 1992, as per the terms set forth, for a total payment for all services not to exceed \$6,955. The Agreement was forwarded to DHES in Helena.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #14 (June 9, 1991 through June 22, 1991) with a total Missoula County Payroll of \$361,327.54. The Transmittal Sheet was returned to the Auditor's Office.

Resolution No. 91-066

Chair Dussault signed Resolution No. 91-066, a resolution relating to tax and revenue anticipation note, Series 1991; authorizing the issuance and sale to the Board of Investments of the State of Montana, fixing the form and terms and authorizing the execution and delivery of related documents.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and the Missoula County Deputy Sheriff's Association from July 1, 1991 through June 30, 1993, for the purpose of providing the promotion of harmonious relations between the Employer and the Association and 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, officer safety, and other conditions of employment, as per the terms set forth. The Agreement was returned to John Pemberton, Personnel Director for further handling.

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

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JULY 16, 1991

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

Audit List

Commissioners Dussault and Stevens signed the Audit List dated July 15, 1991, pages 9-29, with a grand total of \$58,743.52. The Audit List was returned to the Auditor's Office.

JULY 16, 1991 (CONT.)DAILY ADMINISTRATIVE MEETING

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

- 1) the Commissioners approved the proposed revisions to the Maclay Bridge parking regulations and will amend Resolution No. 90-064, which enforces parking restrictions, to include specific language which will prohibit the registered owner from allowing his/her vehicle to be parked in violation of the resolution; and
- 2) a letter will be sent in response to correspondence received regarding the Mount Jumbo Little League fields, reiterating the fact that the lease for the fields at the County Road Department would not be renewed, and that the County had offered to work with them in relocating to the County facility off of Tower Street.

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

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JULY 17, 1991

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

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Paul M. and Elizabeth A. Sharkey for Lot 9 of Grantland #12, in Missoula County, as per the terms set forth, for a total purchase price of \$20,000. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Resolution No. 91-067

The Board of County Commissioners signed Resolution No. 91-067, a resolution superseding Resolution No. 90-064 signed July 18, 1990, a resolution creating a residential on-street parking permit regulation program in the Maclay Bridge area, commencing immediately to address the problem of littering, noise and disruptive behavior, as per the items set forth.

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 in the Driving Under the Influence (DUI) Enforcement Team, as per the terms set forth, commencing July 1, 1991 and concluding June 30, 1992, for a total payment not to exceed \$9,000.00.

Contract

The Board of County Commissioners signed a Contract between the Missoula City-County Health Department and the Missoula Indian Alcohol and Drug Services for the purpose of coordinating comprehensive alcohol services including outpatient care, preventive public

JULY 17, 1991 (CONT.)

education services, emergency care and consultation to residents of Missoula, as per the terms set forth, commencing July 1, 1991 and ending June 30, 1992, for a total payment not to exceed \$11,233.00. The Contract was returned to the Health Department for further signatures and handling.

Acceptance of Grant Award

Chair Dussault signed acceptance of a grant award to the Sheriff's Department from the Board of Crime Control in the amount of \$112,224.00 Federal funds for the 1991 Anti-Drug Abuse Funds subgrant, as per the terms and conditions set forth. The document was returned to the Sheriff's Department for further handling.

Other items included:

The Commissioners approved a change in policy for the Treasurer's Office changing the non-collection non-refund trigger amount to \$2.00 instead of the current \$1.00 amount, which more accurately reflects County costs for collection or refunding.

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

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:30 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Barbara Evans and Janet Stevens.

HEARING: COS REVIEW-AGRICULTURAL EXEMPTION-CORKRAN & IVERSON

Marnie McClain, Deputy County Attorney, explained that Tim Wolfe of Territorial Engineers has submitted an affidavit for an agricultural exemption on behalf of John Corkran and Dennis Iverson, who jointly own a 10-acre parcel located in Potomac. Two parcels would be created. A 4-acre parcel would be used as pasture by Mr. Iverson and the 6-acre remainder would be used for the site of a residence for Mr. Corkran in the future. The 10-acre parcel is currently being used as pasture. According to the Surveyor's Office, neither Mr. Corkran nor Mr. Iverson have previously used any exemptions to the Subdivision and Platting Act.

Ann Mary Dussault open the Public Hearing and asked if anyone cared to testify.

Mrs. Iverson said they are neighbors of Mr. Corkran. They want to keep this piece of property undeveloped. The property adjoins both of their current properties and would increase the value of each of their properties as well as keep any future development from occurring on the property.

Mr. Corkran said a soils profile was done on the parcel about 10 years ago and a building site was approved. However, he wants to secure the property as pasture and would not be building on the parcel in his lifetime.

Barbara Evans reminded both parties involved that an agricultural exemption cannot be lifted without Commissioner action, which is not automatically given.

Janet Stevens moved and Barbara Evans seconded the motion to grant an agricultural exemption as requested by Mr. Corkran and Mr. Iverson, finding no attempt to evade the Montana Subdivision and Platting Act. Motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:35 p.m.

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JULY 18, 1991

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 Rainbow Enterprises as principal for warrant #218461, dated June 10, 1991, on the Seeley Lake Refuse District Fund in the amount of \$2,836.00 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 Services between Missoula County and Jim Meyer, Contractor, dated July 16, 1991, for the purpose of performing roadside mowing services on County maintained roads in the Seeley-Swan, Miller Creek and Potomac areas, as per the terms set forth, for a total payment not to exceed \$3,000.00, commencing July 16, 1991 and terminating November 1, 1991.

Resolution No. 91-068

The Board of County Commissioners signed Resolution No. 91-068, a resolution granting an agricultural exemption to John P. Corkran and Dennis Iverson for a portion of a tract of land described as Tract D-1A COS 2971, whereby the owners certify that the divided land will be used exclusively for agricultural purposes and that no structure requiring water and/or sewage facilities have been or will be erected or used on the land.

Other items included:


- 1) the Commissioners reviewed the audit of the receipts of the Missoula County Elections Office from April 10, 1987, through April 5, 1991, as submitted by the County Auditor; the audit was forwarded to the Clerk & Recorder's Office for filing; and
- 2) the Commissioners appointed Willis Joe Owens and Colleen Nicholson as members of the Seeley Lake Community Council to serve until the School Election in April of 1992.

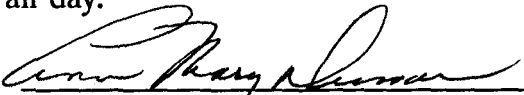
The minutes of the daily administrative meeting are on file in the Commissioners Office.

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JULY 19, 1991

The Board of County Commissioners did not meet in regular session. Commissioner Stevens attended a Mental Health Board Meeting in Hamilton; and Commissioners Dussault and Evans were out of the office all day.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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JULY 22, 1991

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 services of the USDA's Special Supplemental Food Program for Women, Infants, and Children (WIC) to the residents of Missoula, Mineral and Ravalli Counties, as per the terms set forth, commencing July 1, 1991 through June 30, 1992. DHES shall pay Missoula County a total payment for all purposes not to exceed \$267,439.00. The Agreement was forwarded to DHES in Helena.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #15 (June 23, 1991 through July 6, 1991) with a total Missoula County Payroll of \$359,867.28. The Transmittal Sheet was returned to the Auditor's Office.

Labor Agreement Signature Sheet

The Board of County Commissioners signed the Signature Sheet for the Wage Schedule Exhibit "C" for MPEA #3 Courthouse Bargaining Unit Agreement covering the period from July 1, 1991, through June 30, 1992. The document was returned to John Pemberton in the Personnel Office.

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

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JULY 23, 1991

The Board of County Commissioners met in regular session. In the morning, the Commissioners attended a breakfast meeting with the Ambassadors from ASEAN Region in the Pacific Rim sponsored by MEDC; and later in the forenoon, attended Senator Max Baucus' meeting with the Ambassadors.

In the evening, Commissioner Dussault attended a picnic honoring the volunteers at the Fort Missoula Historical Museum; and Commissioner Evans attended the annual Superintendent's Barbecue at the Fairgrounds.

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JULY 24, 1991

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:

JULY 24, 1991 (CONT.)

Other items included:

- 1) the Commissioners reviewed the audit of the Missoula County Extension Workshop account for fiscal year 1991, as submitted by the County Auditor's Office, and forwarded the audit to the Clerk & Recorder's Office for filing;
- 2) the Commissioners approved depositing a check in the amount of \$8,155.78 received from the MACo Workers' Compensation Trust, the third of four refund payments from the capitalization of the MACo Pool, in the Property and Liability Trust account, the same as the two previous checks, per a request from Hal Luttschwager, Risk Manager; and
- 3) a request from MACo for financial support for Rosebud County in their lawsuit against Department of Revenue Rules on Heavy & Mobile Equipment which effected a change in the valuation of heavy equipment and mobile mining equipment was denied by the Commissioners.

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

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:30 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Barbara Evans and Janet Stevens.

OTHER BUSINESS: ERV GYSLER

Erv Gysler from Seeley Lake said he is a member of a committee proposing to establish a sewer district in Seeley Lake. He presented the Commissioners with a petition signed by 100 people in the proposed area. He said he needed 10% of the registered voters or property owners registered to vote somewhere in the United States, and feels that the 100 signatures should take care of that pretty well. He explained that each copy of the petition had the letter and map attached. He also presented the Commissioners with a letter from State Lands, who would have been included if they had gotten it to them 2 weeks ago. The Forest Service did not reply, but might want Big Larch Campground included in the District. He asked that the Commissioners do an election for the proposed sewer district by mail, feeling this would be the best way considering the number of absentee owners in the proposed area. He suggested that the water and sewer boards work together by having some of the same people on both boards.

Ann Mary Dussault thanked Mr. Gysler for all his work on this proposal. She explained that the request would be referred to the County Attorney's Office to see if the petition complies with statutes.

Mike Sehestedt, Deputy County Attorney, said he will take a look at the petition to see if it is sufficient as to form. Wendy Cromwell, County Clerk and Recorder, will review the petition to determine the 10% requirement. The County Commissioners will then proceed to set a date, time and place for a public hearing on the question of creating a sewer district. At that time they will take testimony for and against, as well as determining the boundaries of such district. Boundaries could change, as reflected by testimony. He said there must be a 40% voter turnout to validate the election, and a simple majority determine the issue.

Erv Gysler said that everyone on State lands is in favor of the sewer district, and the community needs to get a sewer system going.

JULY 24, 1991 (CONT.)

Janet Stevens explained that the Commissioners could expand the boundaries if persons appeared at the Public Hearing and asked to be included. Mr. Gysler will be contacted when the County Attorney's Office and Clerk and Recorder's Office have checked out the petition and a hearing date has been set.

HEARING: PLEASANT ACRES NO. 2 - SUMMARY PLAT

Barbara Martens, Office of Community Development, explained that Pleasant Acres No. 2 is a proposed subdivision of 25.53 acres into four single family lots. Three of the lots are approximately five acres in size, with the fourth lot 10.50 acres in size. The property is located in the Big Flat area, west of Mullan Road and directly north of Kona Ranch Road. Individual sewage disposal systems and wells are proposed. The property is zoned "C-A3" (Residential) which allows a maximum density of one dwelling unit per five acres. Two letters have been received in favor of the development, including the following letter received just before the Public Meeting:

"Concerning Stiegler Subdivision: We want you to know that we support the proposed subdivision. We have been out here for years and this subdivision is a good one. It should not bother the wildlife at all and there is still lots of ground around here for the Deer and the Ospreys. (Signed) Clarence Jetter, 10100 Mullan Road, Missoula."

Also, the following letter was received by Barb Martens from Amy O'Herren, Rural Planner:

"As I mentioned during our phone conversation, a vegetative buffer along the western boundary of the proposed Pleasant Acres No. Two would help mitigate potential wildlife/human conflicts. The buffer should consist of native shrubs and trees, such as cottonwood, mountain ash, chokecherry and buffaloberry. The size of the buffer should be a minimum of five feet. I have discussed this idea with Greg Martinsen.

"After contacting Rich Clough, Regional Supervisor with the Department of Fish, Wildlife and Parks, he concurred with the idea and mentioned that the buffer would provide a natural barrier between the proposed development and the rich wildlife habitat along the Clark Fork River. The wildlife not only uses this area for forage and cover, but the land adjacent to the river provides an important travel corridor. In addition, the native shrubs and trees would produce new habitat for numerous bird species.

"If you have any questions, please feel free to contact me at extension 3483."

The Office of Community Development staff recommends that Pleasant Acres No. 2 be approved subject to the following twelve conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. The County grants a waiver to the cash-in-lieu of parkland requirement, subject to the following stipulations: The developer shall enter a covenant to run with the land. This covenant shall be revocable only by mutual consent of the Board of County Commissioners and the property owner. The covenant shall state that the parcels in the subdivision shall never be subdivided into parcels of less than five (5) acres and that all parcels in the subdivision shall be used for single family dwellings. Further, 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.
3. Approach permits shall be obtained from the County Surveyor.
4. The existing field approach constructed with Kona Ranch Road and located near the common lot lines of Lots 6 and 7 shall be removed.
5. The developer shall provide easements for utilities in the appropriate areas.
6. Covenants shall be filed with the plat to address, at a minimum, the concerns expressed by both Rural Planning and the Department of Fish, Wildlife and Parks.

JULY 24, 1991 (CONT.)

7. The Covenants and Restrictions 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 further that the documents contain the applicable provisions required by these regulations and any other provisions upon which plat approval was based or conditioned and that the provisions do not conflict.
8. The access road with the 54' wide private access easement shall meet the requirements of UFC 1988, Article 10, Section 10.207 and shall be subject to the approval of the Missoula Rural Fire District.
9. Fifteen inch diameter culverts shall be installed to perpetuate drainage.
10. Approaches shall be paved to the right-of-way limits.
11. The developer shall place the following statement on the face of the plat and in each instrument of conveyance which states:

"The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner or property owners' association and that the County of Missoula is in no way obligated until the roads are brought up to standards and accepted by the County of Missoula."
12. A statement waiving the right to protest an RSID for future improvements to the private access road with acceptance of a deed for Lot 6 and Lot 9 shall be included in the covenants as well as on the face of the plat.

Also, the developer requests variances to Section 3-1 (5) and (6) requiring paving and design standards for private roads. The Office of Community Development staff recommends that the variance be approved, conditioned on the developer complying with the requirement of UFC 1988, Article 10, Section 10.207 (see Condition #8), and that Lots 6 and 9 which are served by the private access easement must participate in any effort to pave the road through an RSID (see Conditions #12). The reason for granting the variance is that, with requiring condition #8, the design should adequately provide for safety, emergency access and maintenance, and in addition will serve only three dwellings.

Ann Mary Dussault opened the Public Hearing and asked if anyone cared to testify.

Greg Martinsen, the developer's representative, read the following statement:

"I would like first to address the findings of fact written by Barbara Martens of the Office of Community Development, and then suggest amendments to Ms. Martens recommendations.

"Criterion 1: NEED - This subdivision is consistent with the zoning overlay and the uses designated by the Comprehensive Plan and according to the Realtor for the Developer considerable interest has been expressed in the tracts created by this subdivision. I will discuss the second sentence of the first paragraph under Criterion 6, 7 and 8, as these criterion seem more fitting for these concerns than NEED.

"Criterion 2: EXPRESSED PUBLIC OPINION - There are two letters in favor of this subdivision and none in opposition to it, and at this point we have heard no one speak in opposition to this subdivision, or in favor of it, except me.

"Criterion 3: EFFECTS ON AGRICULTURE - The staff findings of fact do not address this criterion and neither will I unless asked to.

"Criterion 4: EFFECTS ON LOCAL SERVICES - We would agree that the ability of public agencies to provide services is an important issue, but private agencies seem to welcome the increased business and revenues that development generates, and seem to be very capable of providing the services. We would appear to have a difference of opinion with the staff in that we do not consider this subdivision to be remote as they call it,

JULY 24, 1991 (CONT.)

especially in light of the fact that it is located only 7.5 road miles from this very building. In a telephone discussion between myself and Bill Reed of the Rural Fire District, he stated that a major concern was that the private driveway to serve Lots 6 and 9 would be in the slick clay type materials that are found in some of the nearby areas. This is not the case as is shown in the enclosed soil profile reports. Article 3-2(6) of the Missoula County Subdivision Regulations indicates that a roadway serving 2 or fewer lots is a private driveway and has a required right-of-way or easement width of 27 feet on property line and a maximum length of 1000 feet. Article 3-2 (8)(F) further states in part, that all driveways accessing a paved roadway shall be paved a minimum of 20 feet back from the roadway, that the unpaved portion of the driveway shall consist of a gravel surface which is well drained, and that the driveway shall be provided for at the time the lots are built on. It should be noted that a minimum width of the driveway is not stated. The immediate access from Kona Ranch Road will be for 3 lots including Lot 5 of Pleasant Acres No. 1, and this was done deliberately with safety considerations in mind to consolidate ingress and egress on Kona Road, but keep in mind that the driveway itself is only for the use of 2 lots, Lots 6 and 9 of Pleasant Acres No. 2. The developer will gladly comply with the Subdivision Regulations by requiring that the purchasers of Lots 6 and 9 construct a minimum 14 foot wide, well drained, gravel surfaced driveway at the time the lots are built on. The Uniform Subdivision Fire Code is not a part of the Subdivision Regulations and therefore should not be used as an arbitrary requirement to the Subdivision Regulations nor should the Missoula Rural Fire District suddenly be granted the power and right to approve driveways. The Fire District's input is necessary and appreciated but the developer has the right to know that if his plan does comply with the Subdivision Regulations, then inconsistent requirements will not be forced onto his development. The developer understands, agrees with and has no problem at all with the remainder of the findings of fact in Criterion 4.

"Criterion 5: EFFECTS ON TAXATION - There is no doubt that more development places some increased demand for services, but we must remember that more development also increases the taxable base and creates more revenue for the County.

"Criterion 6 and 7: EFFECTS ON THE NATURAL ENVIRONMENT, WILDLIFE AND WILDLIFE HABITAT - Since I was not able to find the word "Physiographic" in Webster's New World Dictionary or Black's Law Dictionary or the WordPerfect Thesaurus, I will not be able to address the Staff's concern with "Physiographic" conditions. As far as hydrologic and biologic conditions go, we can tell from the enclosed well log reports that there is an abundance of water available and further it is the charge of the Department of Health and Environmental Sciences to approve or disapprove sewage systems to protect the water supply. In regard to economic conditions, I do not know what to say that was not said under effects on taxation.

"There are no osprey nests on this property. The nearest osprey nest is about 1,100 feet west of the Southwest corner of this subdivision and 50 feet from Kona Ranch Road, right next to an area of high vehicular traffic and where a lot of people park to go fishing, hiking and so forth. It is highly improbable that this subdivision will have any effect on the osprey population. After discussion with some of the residents of this area and watching for myself, it appears that the white-tailed deer tend to move back and forth between the river bottom area to the west of this subdivision and the land on the Kona Ranch to the south of Pleasant Acres No. 2, and very seldom come into the area involved in this subdivision. This can probably be attributed to the irrigation canal that runs along the entire westerly boundary of this subdivision. The east bank of this canal is 4 to 5 feet above the average ground elevation in the subdivision and drops off 8 to 12 feet to level ground on the west side. The channel or flow way of this canal is 5 to 7 feet deep and 10 to 12 feet wide. The west bank supports a growth of native trees, grasses and underbrush, a natural occurrence of just the type of vegetative buffer that the staff is recommending that the developer should create artificially.

"It is suggested that Pleasant Acres No. 2 would effect the riparian areas of the Clark Fork River. Black's Law Dictionary defines riparian as "Belonging or related to the bank of a river or stream; of or on the bank." Land lying beyond the natural watershed of a stream is not "riparian." The westerly boundary of Pleasant Acres No. 2 is 1,100 to 1,200 feet from the bank of the river and the boundary of the 100-year flood plain coincides

JULY 24, 1991 (CONT.)

with another larger irrigation canal 350 to 400 feet away from the west edge of this subdivision. There is a considerable area between the boundary of Pleasant Acres No. 2 and the Clark Fork that is in use as pasture land and for crop production as hay. There is absolutely no question that the river bottom and riparian areas of the Clark Fork River are an extremely important asset to the ecology, environment and wildlife habitat of this area. But we would also like to point out that this development does not encroach upon these areas and any possible negative impact would be negligible, especially in comparison to the impact created by Kona Ranch Road, which does not seem to both the ospreys nor keep the deer from making their appointed rounds. Also worth consideration is the impact created by Kona Bridge and the use of the riparian and river bottom areas by humans for their enjoyment.

"Covenants were not a requirement for Pleasant Acres No. 1 and we do not see a need for them in the case of Pleasant Acres No. 2. The existing zoning regulations for this area seem to be adequate and maintain the desired controls.

"Criterion 8: EFFECTS ON PUBLIC HEALTH AND SAFETY - The staff findings for this criterion are reasonable and sensible.

"VARIANCE REQUESTS

"A variance is requested to the paving requirement since the subdivision regulations specifically allow gravel driveways in cases such as this and it is a waste of time and effort to require the developer to circulate a petition to himself and promote an RSID for paving of the driveway for the use of only 2 residences.

"RECOMMENDATIONS

"After serious consideration and in light of the discussion presented under the criterion in our findings of fact, we would request that the County Commissioners revise and amend the staff recommendations as follows: Recommendations 1, 2, 3, 4 and 5 be retained in their entirety. Recommendations 6, 7, and 8 be dropped and removed in their entirety. Recommendations 9, 10 and 11 be retained in their entirety and be re-numbered 6, 7 and 8. Recommendation 12 be dropped and removed in its entirety.

"In closing, we would say that individuals that can afford to purchase property and develop homesites in this sort of subdivision with the unique character of its nearby surroundings are not mindless illiterate fools, but are of a disposition to maintain the value of their property and the rich nature of its surrounds, largely due to the increased public awareness of these valuable assets.

"I will be pleased to address any questions or discussion the governing body may have. Thank you."

Ann Mary Dussault said his statement was highly offensive to her, including the implication that poor people are mindless, illiterate fools.

Janet Stevens wondered if Rural Fire had a legal position to approve the road conditions. She said she wanted Condition #8 revised, deleting "and shall be subject to the approval of the Missoula Rural Fire District." She also wondered why the covenants were not addressed in Pleasant Acres No. 1.

Barb Martens said we are moving continually closer to the river here, as well as closer to the flood plain area and riparian area. In regard to the road, private road standards are triggered, and the surface will be all weather, not necessarily paved.

Greg Martinsen stated the floodplain boundary was 350 to 400 feet west of the property.

Barbara Evans asked if he objected to the covenants themselves, or something contained in them.

Greg Martinsen said they felt there was not much difference between Pleasant Acres Nos. 1 and 2 and also felt the zoning regulations would take care of any problems.

JULY 24, 1991 (CONT.)

Barbara Evans said she didn't see any negative impact on the subdivision if the covenants were left in, especially since they would be enforced by the residents and not by the County.

Barbara Evans moved and Janet Stevens seconded the motion to approve the summary plat of Pleasant Acres No. 2 finding it to be in the public interest to do so, and subject to the 12 conditions as set forth above, with revision of Condition #8, said condition to read in its entirety: "The access road within the 54' wide private access easement shall meet the requirements of UFC 1988, Article 10, Section 10.207."; and also approved the variance as requested. Motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 2:05 p.m.

FINAL HEARING ON FY'92 BUDGET

Those persons in attendance included Chair Ann Mary Dussault and Commissioners Barbara Evans and Janet Stevens; John DeVore, Administrative Officer; and Jane Ellis, Fiscal Officer. Members of the audience were Kelly Rosenleaf, Bill Chumrau, Larry Weatherman, Connie Clark, Kerie Hagler, Kris Sell, John Pemberton, Hal Luttschwager, and Rachel Villeux.

Ann Mary Dussault open the Public Hearing at 2:30 p.m.

Jane Ellis, Fiscal Officer, gave an overview of the proposed budget. She explained the budget is \$23.4 million, and increase of 4.66% over last year's. However, it is not accompanied by a tax increase because the County was able to re-cap more cash by increasing non-tax revenue. The County had a mill reduction of 1.76. An encumbrance of \$30,000 plus a \$230,000 land payment still have to be loaded. All funds by FY'92 will be in a positive cash position for the first time in 5 to 7 years.

John DeVore, Administrative Officer, said the OCD budget reflected a restored .8 FTE and a Planner II position plus \$8,000 for the purchase of computers. District Court is now in the black, and the County will be funding a Court Master position as well as completing the automation of the court system. At the Library the book budget was restored to \$75,000 plus a 5% reserve in the fund. There has been a generic 5% increase in their operating budget, plus capital resources for a microfilm reader/printer. He said the County is also funding \$24,000 for Partnership for Access.

Kelly Rosenleaf from WEDGo gave an overview of their program, which provides business loans for low-income persons. She expressed her dismay that the County is not considering their request of \$20,000 this year, as they have received this amount for the past three years.

Bill Chumrau from the Missoula Community Business Incubator spoke in favor of the County supporting the \$20,000 request by WEDGo.

Ann Mary Dussault said the County supports WORD, WEDGo and MCBI, and history shows this. She said that as other sources of funding have been developed into the loan fund, they have re-directed our money to technical assistance. She said the CDBG revolving fund could not sustain that \$20,000.

John DeVore said there are not sufficient revenues to support the \$20,000 request because of the previous commitment over the past three years to WEDGo and the current commitment to Industrial Design Manufacturing. There are no funds available for approximately 18 months.

JULY 24, 1991 (CONT.)

Ann Mary Dussault said the Commissioners would keep the request before them, as the budget will not be finalized until next week.

There being no further testimony, the Commissioners were in recess at 3:00 p.m. The Public Hearing on the proposed FY'92 County budget will continue on July 25th at 7:00 p.m. in Room 201 of the Courthouse Annex.

* * * * *

JULY 25, 1991

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 July 24, 1991, pages 9-43, with a grand total of \$214,503.86. The Audit List was returned to the Auditor's Office.

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 the Missoula AIDS Fund for the following purpose: 1) print 5000 safer sex cards; 2) maintain western regional HIV hotline during contract period; 3) purchase and distribute at the 1991 Missoula County Fair booklets, "You Can Do Something About AIDS"; and 4) provide financial support for a teen outreach effort within Missoula High Schools, commencing July 1, 1991 and ending December 31, 1991, as per the terms set forth, for a total payment not to exceed \$900.00. The Contract was returned to the Health Department for further signatures and handling.

Resolution No. 91-069

The Board of County Commissioners signed Resolution No. 91-069, a resolution relating to \$230,000 pooled RSID Bonds Series 1991 (RSID Nos. 439, 440, 441, 443 & 444), authorizing the issuance and calling for the public sale thereof.

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

CONTINUATION OF FINAL HEARING ON FY'92 BUDGET

Those persons in attendance included Commissioners Ann Mary Dussault, Barbara Evans, and Janet Stevens; Jane Ellis, Fiscal Officer; and John DeVore, Administrative Officer. Members of the audience were Larry Weatherman, Jerry Marks, Horace Brown, Katie and Erin Stevens, and Hal Braun.

Ann Mary Dussault opened the Public Hearing at 7:30 p.m.

Jane Ellis, Fiscal Officer, explained that the budget is for a total of \$23.7 million, which is a 6.25% increase in expenditures over last year. There is 1.76 mill decrease in the amount of taxes levied as a result of a greater amount of cash because of careful spending; also, HB312 created some additional revenue from Motor Vehicles without increasing costs to tax payers.

JULY 25, 1991 (CONT.)

John DeVore, Administrative Officer, said enhancements approved include \$8,000 for computers for OCD as well as a Planner II position. District Court, as a result of HB312, provided revenue to balance the budget and eliminate the deficit, as well as the approval of automation of District Court. The Library will see an increase of \$75,000 for books and a 5% cash reserve. The budget also reflects match money for the Partnership in Access Program.

Hal Braun said he was on the committee requesting funding for the health care program called Partnership for Access. He thanked the Commissioners for their support, and for their time and effort in dealing with tough issue.

As there was no further testimony, the Commissioners were in recess at 7:10 p.m. The Public Hearing on the proposed FY'92 County budget will continue on July 26th at 9:30 a.m. in Room 201 of the Courthouse Annex.

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JULY 26, 1991

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


Indemnity Bond

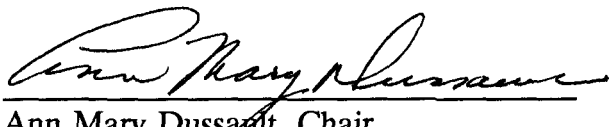
Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Susan Lachman as principal for warrant #26657, dated July 3, 1991, on the Clerk of Court Trust Fund in the amount of \$250.00 now unable to be found.

CONTINUATION OF FINAL HEARING ON FY'92 BUDGET

Those persons in attendance included Commissioners Barbara Evans and Janet Stevens; and Jane Ellis, Fiscal Officer. Members of the audience were Larry Weatherman and Rachel Villeux.

Barbara Evans opened the Public Hearing at 9:30 a.m. As there was no testimony, the Commissioners were in recess at 9:32 a.m. The Public Hearing on the proposed FY'92 County budget will continue on July 29th at 10:30 a.m. in Room 201 of the Courthouse Annex.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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JULY 29, 1991

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 and Jodi Bowser dba Pip Printing as principal for warrant #124138, dated July 17, 1990, on the Frenchtown School District #40 Trust Fund in the amount of \$693.60 now unable to be found.

JULY 29, 1991 (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 between Missoula County and the Seeley Lake VFW Post 7992 for the purpose of erecting and maintaining a flagpole and a veteran's monument on County-owned property located in the SE 1/4 of the SE 1/4 of Section 34, T17N, R15W, as per the terms set forth, and constituting a beautification project as it will provide an attractive entrance to the town of Seeley Lake.

Other items included:

The Commissioners approved a request from Sam Yewusiak, Fair Manager, to utilize \$3,000.00 out of the Capital Fund of the FY'91 budget for a bus turn-out curb improvement along South Avenue.

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

CONTINUATION OF FINAL HEARING ON FY'92 BUDGET

The hearing was called to order by Chair Ann Mary Dussault at 10:30 a.m. Also present were Commissioners Janet Stevens and Barbara Evans; Administrative Officer, John Devore; and Fiscal Officer Jane Ellis.

Jane Ellis, Fiscal Officer, said the preliminary budget was 23.8 million dollars, a decrease of 1.76 mills from the previous fiscal year.

John DeVore, Administrative Officer, explained the enhancements in the budget, which included increased staff in the Office of Community Development. He said the City had also increased their appropriation to that department. The debt in District Court has been retired, and the automation of that department will be completed. The library's budget was increased, the book budget has been restored to its pervious level, and a 5% cash reserve and a 5% increase in the operational budget were both budgeted for. In addition, the Board of County Commissioners have budgeted \$24,000 as their share of the Partners for Access program.

The hearing was opened for public comment.

Fern Hart, 45 Brookside, commended the Commissioners on a good, tight, sensible budget, and expressed her support for the Partners for Access Program.

Patrick Hayes, Box 212, Bonner, addressed the need for dust abatement in the Potomac area, particularly on the Hole in the Wall Road, Swanson Lane, and Morrison Road. He said he had been fighting a one man war with the County Road Department, and he suggested that the County grade the roads in early May, then control the dust by sprinkling through the summer, and then grade again in September. He said the speed limit on those roads was too high for the conditions, and was neither obeyed or enforced.

Doug Chase, Sheriff, was present, but declined to speak.

There being no further testimony, the hearing was closed. Ann Mary Dussault said the Commissioners would discuss all the various suggestions and testimony, and adopt the final budget on July 30, at 10:30 a.m.

There being no further business, the Commissioners were in recess at 10:27 a.m.

* * * * *

JULY 30, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Dussault was in Helena attending a meeting of the MACo Taxation and Finance Committee.

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 Addendum to Earnest Money Receipt and Agreement to Sell and Purchase dated May 1, 1991, between Missoula County and Sunlight Development Company and Patagonia, Inc., for the purpose of extending the terms and conditions of the Buy-Sell Agreement for one (1) year, as if the Agreement were executed on May 1, 1992, as per the terms in the Agreement. The Agreement was returned to Helena Maclay for further handling and signatures.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Terrie Sonju and Missoula County for the purpose of performing secretarial, clerical and administrative duties as set forth, commencing July 1, 1991 and ending June 30, 1992, for the Board of Directors of the Seeley Lake Community Council, for the payment of \$8.00 per hour. The Contract was returned to Terrie Sonju for signature.

ADOPTION OF THE FY'92 BUDGET

Janet Stevens called the meeting to order at 10:30 a.m. Also present were Commissioner Barbara Evans; Jane Ellis, Fiscal Officer; and John DeVore, Administrative Officer.

Janet Stevens explained that the Commissioners were prepared to sign the resolution adopting the County Budget for Fiscal Year 1991-1992, for a total dollar amount of \$23,829,878. She asked if anyone cared to comment on the proposed budget. There were no comments from the audience.

Barbara Evans moved and Janet Stevens seconded the motion to adopt the County Budget for Fiscal Year 1991-1992 as presented. Motion carried on a vote of 2-0.

Resolution 91-070

The Commissioners signed Resolution 91-070, a resolution adopting a budget for Missoula County for Fiscal Year 1991-1992.

RESOLUTION NO. 91-070
ADOPTING A BUDGET FOR MISSOULA COUNTY
FOR FISCAL YEAR 1991-1992

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 1991-1992, 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 1991-1992, 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

JULY 30, 1991 (CONT.)

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 1991-1992, based on the value of a mill of \$118,338 County-wide, and a value of \$64,067 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 1991-1992 as detailed below:

<u>MISSOULA COUNTY-WIDE FUNDS</u>	<u>MILLS</u>	<u>ATTACHMENT</u>
General Fund	41.86	A and B
Bridge Fund	4.00	
Poor Fund	0.45	
Fair Fund	1.48	
Museum Fund	1.75	
Extension Fund	1.30	
Weed Fund	0.68	
Planning Fund	1.60	
District Court Fund	7.21	
Mental Health Fund	0.29	
Developmentally Disabled	0.12	
Aging Fund	0.79	
Park/Recreation Fund	.98	
Risk Management	1.97	
Child Daycare	0.23	
Special Transportation	0.16	
Open Space	0.41	
Library	4.66	
<u>SUB TOTAL</u>	<u>69.94</u>	

MISSOULA COUNTY-WIDE DEBT SERVICE

RSID Revolving	.50
G O Issue (Computer)	2.00
Library Bond	0.23
<u>SUB-TOTAL</u>	<u>2.73</u>

TOTAL COUNTY-WIDE & DEBT SERVICE LEVIES 72.67

Road Fund	13.83
Health Fund	7.30

TOTAL COUNTY-ONLY LEVY 21.13

DATED THIS 30TH DAY OF JULY, 1991

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

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JULY 31, 1991

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

Audit List

Commissioners Dussault and Stevens signed the Audit List, dated July 29, 1991, pages 9-36, with a grand total of \$89,362.65. 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 an Addendum to a Professional Services Contract dated May 31, 1990, between Missoula County and Vocational Resources, Inc. for the purpose of replacing section 2: Term and Payment and Section 4: County Assistance, as per the items set forth.

Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Paul M. and Elizabeth A. Sharkey for Lot 9 of Grantland #12, as per the terms set forth, for a total purchase price of \$20,000.00. The Agreement was returned to Jim Dopp for further handling.

Agreement

Chair Dussault signed an Agency Participation Agreement between Missoula County and Larchmont Golf Course for the purpose of participating in the Missoula County Employee Benefits Plan, as per the terms set forth, commencing July 1, 1991. The Agreement was returned to Hal Luttschwager, Risk Manager, for further signatures and handling.

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

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:30 p.m. by Commissioner Barbara Evans. Also present was Commissioner Janet Stevens.

As there was no business to conduct, the Commissioners were in recess at 1:31 p.m.

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AUGUST 1, 1991

The Board of County Commissioners met in regular session in the afternoon; all three members were present. Commissioners Dussault and Evans were out of the office until noon.

Monthly Report

Chair Dussault examined, approved and ordered filed the monthly reconciliation reports for Justices of the Peace, David K. Clark and Michael D. Morris, for month ending July 31, 1991.

DAILY ADMINISTRATIVE MEETING

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

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Warranty Deed and Settlement Statement between Missoula County and Dan T. and Sandra R. Hash for Lot 3 of Parcel F of Hillside Home Addition No. 1 of Supplemental Plat A in the City of Missoula, as per the terms set forth. The documents were returned to First Montana Title Company for further handling.

Certificate of Survey - Agricultural Exemption

The Board of County Commissioners approved and signed a Certificate of Survey showing an agricultural parcel and remainder in the NW 1/4 of Section 12, T. 12 N., R. 20 W., PMM., Missoula County, the owners being David E. and Christine M. Thorson, who certify that the purpose of this division of land is to create a parcel of land for agricultural or pasture use and that no structure requiring water or sewage facilities has been or will be erected or utilized on the parcel created.

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

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AUGUST 2, 1991

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

Monthly Report

Chair Dussault examined, approved and ordered filed an amended monthly report of the Clerk of District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ending June 20, 1991.

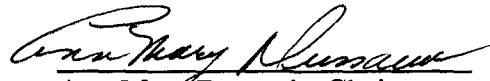
Monthly Report

Chair 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 July 19, 1991.

Replacement Bond

Chair Dussault signed Registered Bond #R-47 issued to CEDE & Co. for the County of Missoula Hospital Revenue Refunding and Improvement Bond, Series 1978 (Missoula Community Hospital Project) to replace Bond #R-46 for \$650,000.00. \$10,000.00 of Bond #R-46 was called 6/1/91; Bond #R-46 has been canceled. The Replacement Bond was returned to Sue O'Neil at First Interstate Bank.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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AUGUST 5, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was on vacation the week of August 5th through August 9th, but met with EDA officials in Denver on August 7th.

AUGUST 5, 1991 (Cont.)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 (DHES), for the purpose of establishing a testing, counselling, referral, and partner notification service center to assist in preventing the spread of HIV and AIDS, as well as conducting an AIDS community health education and risk reduction project, as per the terms set forth, commencing July 1, 1991 and ending by June 30, 1992, for a total payment to Missoula County not to exceed \$21,900.00. The Agreement was forwarded to DHES in Helena.

Agreement

Chair Dussault signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences (DHES), for the purpose of providing services under the Maternal and Child Health Services Block Grant, as per the terms set forth, commencing July 1, 1991 and ending June 30, 1993, for a total payment to Missoula County not to exceed \$123,624.00. The Agreement was forwarded to the Montana Department of Health and Environmental Sciences in Helena.

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

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AUGUST 6, 1991

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:

Permit

The Board of County Commissioners signed a Missoula County Permit, whereby the County agrees to permit Donald Schmitz to use the parcel known as Canyon View Park as shown on the official recorded plat of Canyon Village No. 2 for the purpose of providing pasture, as per the terms set forth, for a period of ten years, renewable at the option of the Board of County Commissioners.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Warranty Deed and Settlement Statement between Missoula County and Dennis W. and Mary H. Trigg for Lot 33 of Grantland 13, as per the terms set forth. The documents were returned to First Montana Title Company for further handling.

Right of Way Agreement

The Board of County Commissioners signed a Right of Way Agreement between Missoula County and the State Highway Department for a tract of land located in the E 1/2 of Section 31, T. 13 N., R. 19 W., PMM, a net area of 3.98 acres, to be used for Highway Project No. M 8103(3), the Reserve Street project, as per the terms set forth, for total compensation to the County of \$78,500.00. The County issued a Deed to the State for the parcel; and Chair Dussault also signed a Disclaimer of Interest in Tenant-Owned Improvements for the Community Medical Center sign, which authorizes the Department of Highways to negotiate with Lessees and to compensate them directly for the improvements. The documents were returned to Deputy County Attorney, Mike Sehestedt, for further handling.

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

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AUGUST 7, 1991

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

AUGUST 7, 1991 (Cont.)

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 91-071

The Board of County Commissioners signed Resolution No. 91-071, a resolution adopting a policy by which permits for the operation of amusement games as set forth in SB 270 will be issued upon application, as per the terms set forth, and assigned administration of the application process to the Missoula County Sheriff's Office and authorizes the Sheriff or his/her designee to execute permits on the Board's behalf.

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. Also present was Commissioner Barbara Evans.

Consideration Of: River Court Addition (Summary Plat)

Information provided by Barbara Martens, Office of Community Development, indicated that River Court Addition is a proposed five lot subdivision on 4.75 acres. The subdivision is located south of River Road (See vicinity sketch on the face of the plat). A duplex is proposed to be built on each of Lots 1, 3, 4, and 5. Lot 2 has an existing single family dwelling. The lots will be served by individual wells and will connect to City sewer service. Cash-in-lieu of parkland will be given to satisfy the parkland requirement.

The area is located in Zoning District No. 16 which allows single family and two family dwellings as permitted uses. This zoning district does not have a minimum lot size requirement.

The Community Development staff recommends that the Summary Plat of River Court Addition be approved subject to the findings of fact contained in the staff report and to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. Grading, drainage, erosion control and street plans for River Court shall be approved by the County Surveyor's Office.
3. Approach permits shall be applied for by all lot owners that access onto the public right-of-way.
4. The developer shall provide easements for utilities in the appropriate areas.
5. The developer shall include a statement in the covenants and on the face of the plat which states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of River Road and may be used in lieu of their signature on an RSID petition.
6. The developer shall give cash-in-lieu of parkland to satisfy the parkland requirement.
7. A one foot no access strip along River Road for the frontage of Lots 1 and 2 shall be provided.
8. The developer shall place the following statement on the plat and in each instrument of conveyance:

"The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner or property-owners' association and that the County of Missoula is in no way obligated until the roads are brought up to standards and accepted by the County of Missoula."

9. The Property-owners' Association documents, covenants and restrictions 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 further provisions required by the Missoula County Subdivision Regulations and any other provisions upon which plat approval was based or conditioned, and that the provisions do not conflict.

AUGUST 7, 1991 (Cont.)

10. A copy of the Property-owners' Association Articles of Incorporation and By-laws, shall show proof of filing with the Secretary of State, prior to plat filing.

11. The developer shall place a statement on the face of the plat stating that at such time Lot 5 is further subdivided, curb, gutter and a sidewalk shall be placed on the remaining portion of River Court.

The hearing was opened for public comment.

Tim Wolfe of Territorial Engineering and Surveying, said that he would appreciate the Commissioners not imposing condition #5, as this would be a private road built to County standards.

Horace Brown, County Surveyor, said that the County would take over the Road whenever it was requested to do so, if the road wa built to County standards.

Ann Mary Dussault said that condition would remain, as it was common, standard procedure, and required of every new subdivision.

Tim Wolfe asked if condition #7 could be changed because Lot #2 had a second access already, and the owners would like enough access to remain for a garage. In addition, he asked that condition #11 be changed because the developer did not intend to develop lot #5 at this time, and, and they would like to put in the curb and gutter now, and do the sidewalks later, when the lot is developed.

Barb Martens said that they would not be required to do the sidewalks now, but that it would be harder to put sidewalks in later, after the building and landscaping would be done.

Tim Wolfe explained the future development plans of the area, and asked that the options be left open for lot #5.

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

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the Summary Plat for the River Court Addition based on the findings of fact contained in the staff report, and subject to the following amended conditions:

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

2. Grading, drainage, erosion control and street plans for River Court shall be approved by the County Surveyor's Office.

3. Approach permits shall be applied for by all lot owners that access onto the public right-of-way.

4. The developer shall provide easements for utilities in the appropriate areas.

5. The developer shall include a statement in the covenants and on the face of the plat which states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of River Road and may be used in lieu of their signature on an RSID petition.

6. The developer shall give cash-in-lieu of parkland to satisfy the parkland requirement.

7. A one-foot, no-access strip along River Road for the frontage of Lot 1 and a portion of Lot 2 to be approved by the County Surveyor shall be provided.

8. The developer shall place the following statement on the plat and in each instrument of conveyance:

"The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner or property-owners' association and that the County of Missoula is in no way obligated until the roads are brought up to standards and accepted by the County of Missoula."

9. The Property-owners' Association documents, covenants and restrictions 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 further provisions required by the Missoula County Subdivision Regulations and any other provisions upon which plat approval was based or conditioned, and that the provisions do not conflict.

AUGUST 7, 1991 (Cont.)

10. A copy of the Property-owners' Association Articles of Incorporation and By-laws, shall show proof of filing with the Secretary of State, prior to plat filing.

11. The developer shall place a statement on the face of the plat stating that at such time Lot 5 is further subdivided, curb, gutter and a sidewalk shall be placed on River Court. Future sidewalk locations shall be shown on the face of the plat. The developer agrees that it is his intention to provide curb and gutter to the remainder of River Court at this time.

The motion carried on a vote of 2-0.

CERTIFICATE OF SURVEY - SIREN

Information provided by Marnie McClain, Deputy County Attorney, indicated that James Weatherly of Sorenson and Company has submitted requests for two exemptions, an occasional sale and a family transfer for Bruce and Mary Siren for a parcel of land, slightly less than 10 acres in size, described as Tract 1 of COS 300B. The parcel is located off of Flynn Lane. The Siren's residence is located on the tract and has been for sale for approximately 2 years. Mr. and Mrs. Siren have submitted these requests for exemptions after being advised by their realtor that they would be more likely to sell the house if they created a smaller tract. They also need to raise some funds to reimburse their son for money which he loaned them to pay a judgement in Great Falls. They propose to create three tracts out of the current parcel - a 2.5 acre parcel with the house on it (this would be the occasional sale), a 1.45 acre parcel (this would be the family transfer) and a 5.89 remainder. According to a letter dated July 22, 1991 from James Weatherly, Mr. and Mrs. Siren would retain this property for sale at a later time or would build a retirement home on it for themselves. According to the Missoula County Surveyor's Office, Mrs. and Mrs. Siren have no history of previous COS exemptions.

The hearing was opened for public comment.

Nick Kaufman of Sorenson and Company, representing the Sirens, said he was present to answer any questions.

Ann Mary Dussault told Mr. Kaufman to remind his client that the remainder could not be subdivided, and if they came in with a request along those lines, they would probably not be granted that request.

Mr. Kaufman said he had already advised his clients of that situation.

Barbara Evans moved and Ann Mary Dussault seconded the motion to grant the Occasional Sale, Remainder, and a Family Transfer to divide the property described as Tract 1 of COS 300B, finding it in the public interest to do so. 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 p.m.

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AUGUST 8, 1991

The Board of County Commissioners did not meet in regular session; Commissioner Dussault attended a Northwest Policy Center Meeting which was held at Yellow Bay, and Commissioner Evans was out of the office until noon.

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AUGUST 9, 1991

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.

Audit List

Commissioners Dussault and Evans signed the Audit List, dated August 5, 1991, pages 9-26, with a grand total of \$79,580.17. The Audit List was returned to the Accounting Department.

AUGUST 9, 1992 (Cont.)Monthly Report

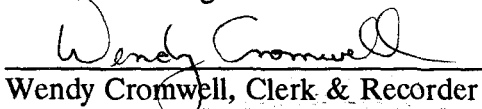
Chair Dussault examined, approved and ordered filed the monthly report of Sheriff Doug Chase, showing the items of fees and other collections on account of civil business in Missoula County for month ending July 31, 1991.

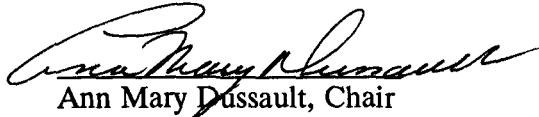
Modification of Agreement

Chair Dussault signed a Modification of Agreement due to a drafting error that resulted in incorporation of the incorrect poverty income guideline for a family of five into the MCH Block contracts, Missoula County and the Montana Department of Health and Environmental Sciences agree to modify the poverty guidelines cited in Section IA(3) of the agreement between them concerning implementation of the MCH Block Grant (DHES No. 320136) as per the amounts listed. The Modification of Agreement was forwarded to the Montana Department of Health and Environmental Sciences in Helena.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and Teamsters Local No. 2, Civilian Detention Officers, 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, commencing July 1, 1991 through June 30, 1993. The Agreement was returned to John Pemberton, Director of Personnel and Labor Relations, for further handling.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

AUGUST 12, 1991

The Board of County Commissioners did not meet in regular session; Commissioner Stevens was on vacation the week of August 12th through August 16th, and Commissioner Dussault was out of the office all day.

AUGUST 13, 1991

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

Audit List

Commissioners Evans and Dussault signed the Audit List dated August 13, 1991, pages 9-36, with a grand total of \$118,286.68. 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 Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #15 (July 7, 1991 through July 20, 1991) with a total Missoula County Payroll of \$379,390.04. The Transmittal Sheet was returned to the Auditor's Office.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Friends to Youth for the purpose of providing counseling services for victims of incest and their families, as per the terms set forth, commencing July 1, 1991 through June 30, 1992, for a total payment not to exceed \$5,000.00.

AUGUST 13, 1992 (Cont.)Agreement

The Board of County Commissioners signed an Agreement between Larchmont Golf Course, an enterprise fund of Missoula County, and Wayne Heintz, golf course superintendent, for the purpose of setting forth the responsibilities and compensation of the superintendent, for a period of two years, commencing on the 1st day of August, 1991. The Agreement was forwarded to the Golf Board for further signatures and handling.

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

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AUGUST 14, 1991

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:

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Watson's Receiving Home for the purpose of providing services for children who are victims of abuse and neglect in Missoula County, as per the terms set forth, for a total payment not to exceed \$25,000.00, commencing July 1, 1991 through June 20, 1992.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and the Missoula Food Bank for the purpose of providing food gleaned and re-distribution services, as per the terms set forth, for a total payment not to exceed \$14,250.00, commencing July 1, 1991 through June 30, 1992.

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

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:30 by Chair Ann Mary Dussault. Also present was Commissioner Barbara Evans.

BOND BIDS -RSID #'S 439, 440, 441, 443, AND 444 (COMBINED BOND BID)

Information provided by Jim Dopp, Operations Officer, indicated that bids for the purchase of bonds for RSID 439, 440, 441, 443, and 444 were received on Wednesday, August 14. Bonds were not opened due to a change in the principal amount of the issue. Bids were received from D.A. Davidson & Co, and Campbell Waterman Inc. His recommendation was to postpone the award for bonds until Thursday, August 15 at 4:30, or Friday, August 16 at 10:30, depending on the availability of the Commissioners, to allow for notification of bidders of the change in the principal amount.

Barbara Evans moved and Ann Mary Dussault seconded the motion to postpone the opening and awarding of the bond bids for the Combined Bond Bid on RSID's 439, 440, 441, 443, and 444 as recommended. The motion carried on a vote of 2-0.

CONSTRUCTION BIDS - RSID 439 (ELK RIDGE ROAD PAVING PROJECT)

Information provided by Jim Dopp, Operations Officer, indicated that Bids for construction of improvements to Elk Ridge Road were opened on Monday, August 12th. The following bids were received:

JENSON PAVING CO.: \$98,770.16

WESTERN MATERIALS: \$83,243.00

AMERICAN ASPHALT: \$74,036.40

AUGUST 14, 1991 (Cont.)

His recommendation was to award the bid for RSID #439 to American Asphalt as best and most responsive bidder. The award would be subject to the sale of bonds for the project.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bids for construction of improvements to Elk Ridge Road (RSID #439) to American Asphalt as best and most responsive bidder in the amount of \$74,036.40, contingent on the sale of bonds for the project. The motion carried on a vote of 2-0.

CONSTRUCTION BIDS - RSID #440 (5TH STREET PAVING, SIDEWALK, CURB AND GUTTER)

Information provided by Jim Dopp, Operations Officer, indicated that bids for construction of improvements to 5th Street were opened on Monday, August 12, 1991. The following bids were received:

JENSON PAVING CO. \$62,561.50

WESTERN MATERIALS INC. \$61,385.75

AMERICAN ASPHALT - \$62,091.00

His recommendation was to award the bid for RSID #440 to Western Materials Inc., as best and most responsive bidder, subject to the sale of bonds for the project.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bids for construction of improvements to 5th Street (RSID #440) to Western Materials as best and most responsive bidder in the amount of \$61,385.75, contingent on the sale of bonds for the project. The motion carried on a vote of 2-0.

CONSTRUCTION BIDS RSID #441 (SHILLING STREET AND ALLEY PAVING)

Information provided by Jim Dopp, Operations Officer, indicated that bids for construction of improvements to Schilling Street and Alley were opened on Monday, August 12, 1991. The following bids were received:

JENSEN PAVING CO. - \$36,525.50

WESTERN MATERIALS INC. - \$36,265.25

AMERICAN ASPHALT - \$39,466.35

His recommendation was to award the bid for RSID #441 to Western Materials Inc., as best and most responsive bidder, subject to the sale of bonds for the project.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bid for RSID #441 to Western Materials Inc., as best and most responsive bidder, subject to the sale of bonds for the project. The motion carried on a vote of 2-0.

CONSTRUCTION BIDS RSID #443 - (KEMP AND SUSSEX AVENUE SEWER)

Information provided by Jim Dopp, Operations Officer, indicated that bids for construction of sewer improvements to Kemp and Sussex Avenue were opened on Monday, August 12, 1991. The following bids were received:

JENSON PAVING CO. - \$43,292.00

WESTERN MATERIALS INC., - \$41,800.00

AMERICAN ASPHALT - \$50,568.00

JOHNSON BROS. INC. - \$54,480.00

His recommendation was to reject all bids for RSID #443 due to all of them being over the estimated cost for the project (\$29,416.00)

AUGUST 14, 1991 (Cont.)

Barbara Evans moved and Ann Mary Dussault seconded the motion to reject all bids for construction of RSID #443, Kemp and Sussex Avenue sewer. The motion carried on a vote of 2-0.

CONSTRUCTION BIDS RSID #444, (4TH STREET ALLEY PAVING)

Information provided by Jim Dopp, Operations Officer, indicated that bids for construction of improvements to 4th Street Alleys were opened on Monday, August 12, 1991. The following bids were received:

JENSEN PAVING CO. - \$20,951.50

WESTERN MATERIALS INC., - \$22,005.00

AMERICAN ASPHALT - \$20,158.05

His recommendation was to award the bid for RSID #444 to American Asphalt as the best and most responsive bidder, subject to the sale of bonds for the project.

Barbara Evans moved and Ann Mary Dussault seconded the motion to award the bids for RSID #444 to American Asphalt in the amount of \$20,158.05, subject to the sale of bonds for the project. The motion carried on a vote of 2-0.

HEARING: CERTIFICATE OF SURVEY (RELOCATION OF A COMMON BOUNDARY - DONEY)

Information provided by Marnie McClain, Deputy County Attorney, indicated that Andy Fisher of Eli and Associates had submitted an affidavit for a relocation of a common boundary for Michael Doney. In essence, Mr. Doney proposed expanding the boundaries of a one acre parcel created for mortgage security purposes in 1977 into a five acre parcel. He would then sell the newly created five acre parcel, leaving a ten- acre remainder. According to the Missoula County Surveyor's Office, Mr.; and Mrs. Doney previously utilized an occasional sale exemption on the same tract in 1979 to create two 15-acre parcels.

The hearing was opened for public comment.

ANDY FISHER, of Eli and Associates, explained that the Doney's had originally bought the with another couple, and had subsequently divided it. The other couple had, in fact, done the occasional sale, and had put it in the Doney's name. He said he was convinced that the Doney's had not, in fact, been a party to that original split.

BARBARA EVANS informed Mr. Fisher that he should tell the Doney's that any further splits of this property would be looked at very closely for evasion of the Subdivision and Platting Act.

Barbara Evans moved and Ann Mary Dussault seconded the motion to divide the property described as Book 108 Micro Page 025, TR B-2 COS 1798, less Book 108 Micro Page 025 by relocating a common boundary and leaving a ten acre remainder, finding it in the public interest to do so. This decision is based on the finding that there is no apparent 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 1:55 p.m.

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AUGUST 15, 1991

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:

AUGUST 15, 1991 (Cont.)Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Ralph E. and Merna B. Strauch for Lot 11, Block 28, Knowles Addition #1, as per the terms set forth, for a total purchase price of \$34,257.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Budget Agreement

The Board of County Commissioners signed a Budget Agreement between Missoula County and Montana State University Extension Service, whereby the County will contribute the amounts specified for the purposes listed in the budget for the support of extension work in agriculture, home economics and related subjects for the period beginning July 1, 1991, and ending June 30, 1992; the Extension Service and Montana State University will contribute the amounts necessary to pay the balance of the cooperatively financed salaries of County Extension Agents assigned to Missoula County. The Agreement was returned to Jerry Marks in the County Extension Office for further handling.

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

Bid Award

Bids for the purchase of bonds for RSID Nos. 439, 440, 441, and 444 were received on Wednesday, August 14th. Bonds were not opened due to a change in the principal amount of the issue. The award was postponed to 4:30 p.m. on August 15th to allow bidders time to submit revised bids on the new principal amount. The following bids were opened at 2:00 p.m. on August 15th on the \$186,000 issue:

D. A. Davidson & Co. - 7.1513% net effective interest rate


Campbell Waterman, Inc. - 6.9726% net effective interest rate

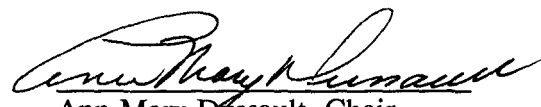
As per the recommendation of General Services, the Commissioners voted unanimously to award the bonds to Campbell Waterman, Inc. at a net effective rate of 6.9726%.

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AUGUST 16, 1991

The Board of County Commissioners did not meet in regular session; Commissioners Dussault and Evans were out of the office all day.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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AUGUST 19, 1991

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 Missoula Aging Services for the purpose of planning and coordinating services of aging programs in Missoula County, as per the terms set forth, commencing July 1, 1991 through June 30, 1992, for a total payment not to exceed \$119,375.00.

AUGUST 19, 1991 (Cont.)Certification of Acceptance

Chair Dussault signed a Certification of Acceptance for County Maintenance for Clydes Dale Lane, Road No. L916, located in T. 13 N., R. 20 W., Sections 27 and 33, constructed under RSID No. 442, a total of .255 miles. The Certification was returned to the Surveyor's Office.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and the Missoula Rural Fire District for the purpose of delineating the performance of administrative and investigative services for the enforcement of Resolution No. 90-037, Control of Community Decay, as per the terms set forth, effective retroactively to July 1, 1991, and the County will pay to the Fire District for the services performed the sum of \$28,800 for fiscal year 91-92. The Agreement was returned to Bill Reed at Missoula Rural Fire for further signatures.

Tax and Revenue Anticipation Note Documents

Chair Dussault signed the Tax and Revenue Anticipation Note Documents, Series 1991, at an interest rate at 4.8%; the date of original issue being August 29, 1991, and the maturity date being September 29, 1992, with a principal amount of \$432,000. The documents were returned to Jane Ellis, Fiscal Officer, 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 Jim Carlson of the Health Department conducted an inspection of the Missoula County Jail.

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AUGUST 20, 1991

The Board of County Commissioners met in regular session in the forenoon; all three members were present. Commissioners Evans and Stevens were at the Fairgrounds all afternoon.

Audit List

The Board of County Commissioners signed the Audit List, dated August 19, 1991, pages 3-29, with a grand total of \$136,837.29. The Audit List was returned to the Accounting Office.

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 Dale E. Miller for Lot 3 and 3A Hillside Homes Block 2, as per the terms set forth, for a total purchase price of \$16,000.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Resolution No. 91-072

The Board of County Commissioners signed Resolution No. 91-072, a resolution accepting common areas in Hillview Heights #6 subdivision from the City of Missoula, resolving that Missoula County accept ownership by Quitclaim Deed from the City of Missoula.

Termination of Agreement

The Board of County Commissioners signed a Termination of Agreement and Disposition of Unexpended Earnest Money between Dan T. and Sandra R. Hash for the property located at Lot 3, Hillside Homes #1, Supp Plat A; a/k/a 5614 Gharrett, in Missoula County, canceling the agreement as the sale did not go through and forfeiting the \$100 earnest money to the seller (Missoula County). The Termination of Agreement was returned to Jim Dopp, Operations Officer, for further handling.

AUGUST 20, 1991 (Cont.)Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Friends to Youth, for the purpose of providing substance abuse prevention services for, and on behalf of, primary and secondary victims of incest and child abuse in Missoula County, as per the terms set forth, for a total payment not to exceed \$4,350.00 commencing July 1, 1991 and terminating on June 30, 1992.

Other items included:

- 1) the Commissioners reviewed the audit of the Western Montana Fair, as submitted by the County Auditor, for the period from July 1, 1990 to February 28, 1991, including a Parimutuel income statement for FY'90 and FY'91. The audit was forwarded to the Clerk & Recorder's Office for filing; and
- 2) the Commissioners appointed Scott Willis as a regular member of the Larchmont Golf Course Board of Directors to fill the unexpired term of Cass Chinske through March 31, 1993.

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

* * * * *

AUGUST 21, 1991

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

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Custom Program Development as principal for warrant #218461, dated June 12, 1991, on the DES Fund in the amount of \$400.00 now unable to be found.

Contract

The Board of County Commissioners signed a Contract between Missoula County and American Asphalt, Inc. for the purpose of construction, installation and completion of improvements to Elk Ridge Road (RSID No. 439), as per the terms set forth, for a total payment not to exceed \$74,036.40. The Contract was returned to Jesse Sattley in General Services for further signatures and handling.

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'92 budget:

No. 920002, a request to transfer \$1,125 from the Audio Visual Materials account to the Capital-Technical Equipment account to purchase a video camera and supplies for Search & Rescue as per the contract with the Forest Service.

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:30 p.m. by Commissioner Ann Mary Dussault. Also present were Commissioners Janet Stevens and Barbara Evans.

BID AWARDS: ONE (1) 1-TON FULL-SIZE VAN (SURVEYOR) POSTPONED FROM AUGUST 14TH

Ann Mary Dussault explained that this is a request to award bids for a 1-ton full-size van. Bids were opened at 10:00 a.m. on August 12, 1991, with the following results:

Bitterroot Motors		\$17,306.00
Grizzly Auto Center	1A	\$16,459.00
with trade-in	2A	\$15,259.00

AUGUST 21, 1991 (Cont.)

Staff recommends that the bid be awarded to Grizzly Auto Center for option 2A with trade-in for the total amount of \$15,259.00 (van with trade-in) as the lowest and most responsive bidder.

Barbara Evans moved and Janet Stevens seconded the motion to award the bid for the 1-Ton Full-Size Van to Grizzly Auto Center for a total amount of \$15,259.00 as the lowest and most responsive bidder. Motion carried a vote of 3-0.

BID AWARDS: RECONSIDERATION OF AWARDING OF CONSTRUCTION BIDS FOR RSID #440, 441, 444 (SCHILLING STREET AND ALLEY PAVING)

Ann Mary Dussault explained that this is a request to award bids for RSID #440, 441 and 444 5th Street, Schilling Street and Alley. Bids were opened at 10:00 a.m. on August 12, 1991, with the following results:

Jensen Paving	\$120,038.50
Western Materials, Inc.	\$119,656.00
American Asphalt	\$122,525.40

Bids were to be awarded for those projects in total rather than separately as was done last week. The Commissioners then decided to rescind their decision rather than reconsider the motion of last week.

Barbara Evans moved and Janet Stevens seconded the motion to rescind the action taken last week in regards to the awarding of bids for RSID #440, 441, 444 (Schilling Street and alley paving). The motion carried on a vote of 3-0.

Barbara Evans moved and Janet Stevens seconded the motion to award the bid for RSID #440, 441, and 444 (Schilling Street and alley paving) to Western Materials, Inc. for a total amount of \$119,656.00 as the lowest and most responsive bidder contingent upon the sale of the bonds for the project. Motion carried on a vote of 3-0.

HEARING: PETITION TO VACATE BLOCK 2 OF SUNSET WEST SUBDIVISION AND A PORTION OF MULLAN ROAD RIGHT-OF-WAY ADJACENT TO BLOCK 2

Barb Martens, Office of Community Development, provided information that indicated that a petition to vacate " a portion of Sunset West, a platted subdivision of Missoula County, Montana located in Sections 33 & 34, Township 15 North, Range 21 West, Principal Meridian, Montana being more particularly described as follows: All of Block 2 and that portion of Mullan Road lying adjacent to the southerly boundary of said Block 2. The reason for this request is as follows, "So that we can re-plat said Block 2 and adjacent lands as KING RANCH - PHASE I, in full conformance with the preliminary approval of said plat granted by the Board of County Commissioners on October 24, 1990 and, so that we can re-plat this portion of Mullan Road in a slightly different alignment to better coincide with the alignment of the present traveled way."

Ann Mary Dussault opened the Public Hearing and asked for testimony.

Dick Ainsworth, PCI, explained that they wanted to vacate at the same time the plat is filed to avoid difficulties that would occur if filed separately.

Ann Mary Dussault closed the Public Hearing as there was no other testimony.

Janet Stevens moved and Barbara Evans seconded the motion to approve the vacation of Block 2 of Sunset West Subdivision and a Portion of Mullan Road right-of-way adjacent to Block 2 contingent upon the filing of the proposed plat. The alternative is that there is an agreed-upon right-of-way on Mullan Road. Motion carried on a vote of 3-0.

CONSIDERATION OF KING RANCH PHASE I (FINAL PLAT)

Barb Martens, said that on October 24, 1990, the Board of County Commissioners approved a request by Bud King Construction, Co. to subdivide approximately 27 acres of land into 36 single family lots. The subdivision is located along Mullan Road, just west of Frenchtown. The developer also proposes

AUGUST 21, 1991 (Cont.)

to develop a golf course adjacent to the residential development. The project will be phased, in three phases, over a 5-8 year time frame. This final plat is for Phase I, which consists of 8 lots, located on the north side of Mullan Road. The staff recommends that the final plat for King Ranch, Phase I be approved, subject to the three conditions as stated in the Staff report. She said that she did receive a call from Scott Waldron, who is the chief of the Frenchtown Fire District. He expressed concern over the fire protection for the first phase. However, he did say he would withdraw opposition.

Dick Ainsworth, PCI, representing Mr. King, said that Scott Waldron withdrew opposition if three conditions were met, the 3rd being that there would have to be water piped to the road from the pond. This would allow for the drafting of water from the ponds and would be considered hydrants.

Janet Stevens moved and Barbara Evans seconded the motion to approve the King Ranch final plat subject to the conditions as stated in the Staff report. Motion carried on a vote of 3-0.

CONSIDERATION OF BITTERROOT MEADOW PHASE TWO (FINAL PLAT)

Barb Martens said that the Bitterroot Meadow Phase Two is a subdivision with sixty-seven single family lots planned for this 40.07 acre site, located west of Highway 93 and south of Mormon Creek Road in Lolo. It was proposed to be developed in three phases. The deadline for the preliminary plat approval period occurs on February 23, 1993. Phase I included 25 lots and a 1.17 acre common area. It was approved by the County Commissioners on Feb. 29, 1984. Phase II proposes 24 lots on 13.67 acres, with a cash in lieu of parkland dedication to be given to satisfy the parkland requirement. Since the staff report was written, the Staff has been informed of additional information for the final plat of Bitterroot Meadows, Phase II. When the preliminary plat was approved in 1983, sixty-seven lots were proposed. On August 20, 1991, the developer stated in a phone conversation that sixty-nine lots are proposed and that two additional lots were incorporated into Phase Two. In the Missoula County Subdivision Regulations state under Section 4-2 (1) that the final plat must conform with the preliminary plat approval in order to get a recommendation for approval. It does state however, that the governing body may approve a final plat which has been modified to reflect improvements in design or changes which have occurred in its natural surroundings and environment since the time of the preliminary plat review and approval. There has been no correspondence with the developer on how in their opinion, they have made changes to reflect improvements.

Recommendation was made to deny the plat on the basis that it doesn't conform with the preliminary plat with the addition of the two lots and no information has been received to address the improvements in design. An alternative would be to defer the decision and allow the developers time to submit information how they feel the design has been improved, recontact the agencies that have reviewed it and then bring it back in two weeks. Also, there was a variance granted by the Commissioners for the removal of 5 trees in Phase I. The developer was required to replant the trees either on the eastern boundary or within the common area. The trees were not planted in these areas.

Larry Kolb stated that the trees were transplanted by the Homeowners Association. It was decided by the Association not to replant the trees on the eastern boundary because there was no water in this area.

Ann Mary Dussault stated that the problem with all of this is that the agreement is with Larry Kolb, not with the Homeowner's Association. She said the changes seem reasonable, but there is no longer any assurance that it won't happen again.

Barb Martens addressed the issue of the 69 Platted lots being more than the stated 67 lots on the Preliminary Plat.

Larry Kolb stated that Sorensen & Co., Engineers, in 1983 proposed 67 lots and after readjusting the lots, they found they had more land area. When the Dept. of Health approved it, they approved it for 70 homes (one home being Larry Kolb's personal home which is outside the subdivision, but hooked up to the utilities). Somehow the Planning Board was not informed on this change and the Preliminary Plat was not changed. Since 1984 the Restrictive Covenants show that it is to be a 69 lot subdivision when built. The State Department of Health approval letter refers to 70 lots in the water system.

Barbara Evans asked if there was a legal problem if the Board chose to approve this today since the statute says that we shall approve it when and only when it conforms to the conditions of approval set forth in the Preliminary Plat?

Mike Sehestedt, Deputy County Attorney, replied that he wasn't sure if the issue is the number of lots not the specific arrangement of lots.

AUGUST 21, 1991 (Cont.)

Mike Sehestedt stated that the governing body may approve the final plat which has been modified to reflect the improvements in design or changes which occurred natural surroundings environment since the time of Preliminary Plat review and approval. The only improvement in design is that the Engineers have calculated more accurately the lot sizes.

Barb Martens then requested documentation to acknowledge the conflict and amend the Preliminary Plat to reflect the changes based on what occurred. Action could then be taken at the Public Meeting dated August 28, 1991.

Ann Mary Dussault stated that the Preliminary Plat could not be amended at this time.

Barb Martens then stated that the Board could approve the it based on the fact that more land has been found than originally thought and approve it today.

Mike Sehestedt agreed with this statement saying that the final plat reflects and more fully utilizes the land, with no adverse effect on the land.

Ann Mary Dussault stated that she would vote against the motion because the point has been stretched.

Janet Stevens moved and Barbara Evans seconded the motion to approve the final plat of Bitterroot Meadow Phase II (Final Plat) as modified to reflect the improvements in design and changes which have occurred in the natural surroundings and environment since the time of the preliminary plat review and approval. Motion carried on a vote of 2-1.

OTHER BUSINESS & PUBLIC COMMENT: AMENDMENT TO CONDITIONS ON LOLO VIEW MANOR

Ann Mary Dussault stated that condition No. 13 presently reads:

"The County Surveyor, Fire Department, and Missoula Irrigation Ditch Company shall approve the plan for road improvements in the ditch area. The bridge or culvert proposed for the irrigation ditch shall be capable of supporting 60,000 pounds for fire apparatus."

The Revised condition would now read:

"The County Surveyor, Fire Department, and Missoula Irrigation Ditch Company shall approve the plan for road improvements in the ditch area. The bridge or culvert proposed for the irrigation ditch shall be capable of supporting 40,000 pounds for fire apparatus access. Signage shall be posed, by the developer, listing the 40,000 pound weight limit. Access from 26th Street and North Avenue into Lolo View Manor Mobile Home Court shall be available to all vehicles."

Barb Martens stated that she had received letters from both the Rural Fire District and the City Fire Chief agreeing with the change as proposed.

Horace Brown, County Surveyor, stated that it was not necessary to post culverts in the county.

Barb Martens stated that the City Fire Chief said that they have a fire truck that needs greater capacity than what is there. He asked that it be posted so that it would be clear it was for a 40,000 pound vehicle.

Janet Stevens moved and Barbara Evans seconded the motion to approve the revision of condition No. 13 for Lolo View Manor Mobile Home Park Subdivision as stated in the Staff report. Motion carried on a vote of 3-0.

Barb Martens added that she did talk with the Bauers who are the owners of the Park and they did not have a problem with the additional requirements.

HEARING: CERTIFICATE OF SURVEY (KENNETT AND LACEY)

Marnie McClain, Deputy County Attorney, stated that Dick Ainsworth has submitted an affidavit on behalf of Gregory Kennett and Celestine Lacey for an occasional sale. Kennett and Lacey propose to divide Tract 12A, COS 3616, a ten acre tract, into two five acre parcels. This tract is located in the Big

AUGUST 21, 1991 (Cont.)

Flat area and was part of a large ranch owned by George Doherty. Mr. Doherty divided the ranch into 20+ acre tracts in 1977. This parcel was originally part of a subdivision which was denied in 1978. Neither applicant has a history of use of COS exemptions.

Ann Mary Dussault opened the Public Hearing and asked for testimony.

Barbara Evans asked which road accessed this land.

Dick Ainsworth stated that the access road was Windmere via Big Flat Road.

Ann Mary Dussault said that this is before the Board because the land is within a subdivision that had been denied.

Barbara Evans moved and Janet Stevens seconded the motion to approve the occasional sale for Greg Kennett and Celestine Lacey as submitted. It does not appear to evade the subdivision law. The motion carried on a vote of 3-0.

HEARING: CERTIFICATE OF SURVEY (FLEMING)

Marnie McClain stated that Edward Fleming of Territorial Engineering and Surveying has submitted an affidavit to divide Tract 5B of COS 2608 using the occasional sale exemption. The 4+ acre parcel is located in Lolo on the hill above the Shelby Addition. The parcel would be divided into a .59 acre parcel with a 3.49 acre remainder. This particular parcel is part of a tract which has been divided four times in the past: by Gerald Tucker in 1977 (+20 acres); by Evelyn Carpenter in 1979 (occasional sale); by Susan Allen in 1979 (gift to family member) and by Ken and Susan Allen in 1979 (boundary relocation). The applicant has not previously divided land using COS exemptions.

Edward Fleming stated that only two single family homes could be built on this site as the rest of the acreage is located on a hill. Spec homes will be built on these sites by a Contractor. The access is off of Mormon Creek Road.

Barbara Evans moved and Janet Stevens seconded the motion to approve the occasional sale and certificate of survey submitted by Mr. Fleming in that no attempt at evasion of the subdivision law was found. Motion carried on a vote 2-1. The Chair voted against the motion because of the history of the parcel.

There being no further business to come before the Board, the Commissioners were in recess at 2:45 p.m.

AUGUST 22, 1991

The Board of County Commissioners did not meet in regular session; Commissioner Dussault was in Great Falls attending a BOS Joint Council Meeting, and Commissioners Evans and Stevens were at the Fairgrounds most of the day.

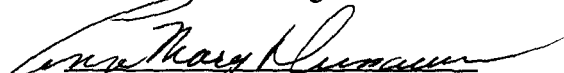
Agreement

Acting Chairman Stevens signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences (DHES) for the purpose of developing consortia to help individuals with HIV infection and their families to get needed services, as per the terms set forth, commencing August 22, 1991, and completed by March 31, 1992, for a payment to Missoula County not to exceed \$9,000.00. The Agreement was forwarded to the Montana Department of Health and Environmental Sciences in Helena.

AUGUST 23, 1991

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


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

AUGUST 26, 1991

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

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Frederick D. Chadwick for Lot 3 of Grantland #13, as per the terms set forth, for a total purchase price of \$25,000.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and Local Unit Number One of the Montana Public Employees Association, for the purpose of defining the wages, hours and other working conditions of the employees of Missoula County who are represented by the Association, as per the terms set forth, commencing July 1, 1991 through June 30, 1993. The Agreement was returned to John Pemberton, Director of Personnel and Labor Relations, for further signatures and handling.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and Local Unit No. Two (Nurses) of the Montana Public Employees Association for the purpose of collective bargaining with respect to rights of pay, hours and other conditions of employment, from July 1, 1991 through June 30, 1992. The Agreement was returned to John Pemberton, Director of Personnel and Labor Relations, for further signatures and handling.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Women's Place for the purpose of providing substance abuse prevention services for, and on behalf of, primary and secondary victims of violent personal crime in Missoula County, as per the terms set forth, for a total payment not to exceed \$3,105.00, commencing July 1, 1991 and terminating on June 30, 1992.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Missoula Youth Homes for the purpose of providing substance abuse prevention services for, and on behalf of, primary and secondary victims of violent personal crime in Missoula County, as per the terms set forth, for a total payment not to exceed \$19,348.00, commencing July 1, 1991 and terminating on June 30, 1992.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Child Care Resources, Inc. for the purpose of providing 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 payment not to exceed \$31,000.00, commencing July 1, 1991 and terminating on June 30, 1992.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and The Western Montana Comprehensive Developmental Center for the purpose of providing evaluation and treatment services for children and adults in Missoula County, as per the terms set forth, for a total payment not to exceed \$12,350.00, commencing July 1, 1991 and terminating on June 30, 1992.

AUGUST 26, 1991 (Cont.)Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and The Western Montana Regional Community Mental Health Center for the purpose of providing mental health services for Missoula County residents, as per the terms set forth, for a total payment not to exceed \$40,000.00, commencing July 1, 1991 and terminating on June 30, 1992.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Women's Place for the purpose of providing crisis intervention, counseling and advocacy services for victims of battering, sexual assault, rape and other types of domestic violence in Missoula County, as per the terms set forth, for a total payment not to exceed \$10,000.00, commencing July 1, 1991 and terminating on June 30, 1992.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Steve and LuAnne Reynolds dba Eco Clean, independent contractors, for the purpose of obtaining general cleaning services for the interior of the Art Museum building, at 335 N. Pattee Street, as per the terms set forth, commencing July 1, 1991 and terminating June 30, 1992, for a total payment not to exceed \$2,912.00.

Budget Transfer

The Board of County Commissioners approved and signed the following Budget Transfer for the Museums and adopted it as part of the FY'92 budget:

No. 920003, a request to transfer \$1,939. from the Historical Museum's Exhibit Costs account to the Museum Board's Promotion/Publicity (\$1,000.00), Art Museum's Capital (\$800.00), and Contracted Services (\$139.00) accounts to resolve last minute budget issues as per the memo attached to the Transfer on file in the budget files.

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

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AUGUST 27, 1991

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

Audit List

Commissioners Dussault and Stevens signed the Audit List, dated August 27, 1991, pages 2-37, with a grand total of \$153,493.50. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Montanans for Quality Television for the purpose of sponsoring cultural and aesthetics projects in Missoula County, as per the terms set forth, for a total payment not to exceed \$10,000.00, commencing July 1, 1991 and terminating on June 30, 1993.

Resolution No. 91-073

The Board of County Commissioners signed Resolution No. 91-073, a Resolution amending Exhibit A of the Installment Purchase Contract dated June 24, 1988, between Missoula County and the Montana Board of Investments to include the following in the equipment description:

Telephone System Upgrade	\$60,000
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AUGUST 27, 1991 (Cont.)

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

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AUGUST 28, 1991

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 Carol Vannoy as principal for warrant #2840, dated May 13, 1991, on the Missoula County Transportation Fund in the amount of \$98.56 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 Thibodeau and Poitras Tract, Block 1, Lot A; Block 2, Lots A, B & C, and Block 3, Lots A, B & C, an amended Plat to show the relocation of common boundary lines of Lots 22 and 23, Block 1; Lot 1, 2, 14 and 15, Block 2; and Lots 1, 2, 18 and 19, Block 3, Thibodeau and Poitras Tract, a subdivision of Missoula County; along with the south line of the NE 1/4 SW 1/4, Section 17; end to show the re-dedication of portions of Thibodeau Lane, AAbear Lane, Fontaine Drive, end the alley in Block 2, Thibodeau and Poitras Tract. All located in the SE 1/4 NE 1/4 SW 1/4, end G.L.O. Lot 5, Section 17, T13N, R18W, P.M.M., Missoula County, with the owners of record being SE 1/4 NE 1/4 SW 1/4, Section 17--Alice J. Gillies; Thibodeau and Poitras Tract Lots - Block 1, Lots 22 and 23 -- Raymond and Edna Anthony; Block 2, Lots 1 and 2 -- Kenneth J. and Nina J. Karl; Block 2, Lots 14 and 15 -- Jack W. and Virginia M. Thibodeau; Block 3, Lots 1, 2, 18 and 19 - Charles T. and Gloria E. Nyquest.

Contract

The Board of County Commissioners signed a Contract between Missoula County and Western Materials, Inc. for the purpose of construction, installation and completion of RSID No.'s 440, 441 & 444, street improvements on portions of South Fifth Street and Schilling Street and adjacent alleys, as per the terms set forth, for a total payment not to exceed \$119,656.00. The Contract was returned to Jesse Sattley in General Services, for further signatures and handling.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #16 (7/21/91 through 8/03/91) with a total Missoula County Payroll of \$390,018.53. The Transmittal Sheet was returned to the Auditor's Office.

Maintenance Agreement

Chair Dussault signed Schedule B of a Maintenance Agreement between Missoula County and Unisys Corporation for Agreement No. 91080055, with an effective service date of March 1, 1991. The Agreement was returned to Jim Dolezal in Data Processing for further signatures and handling.

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:30 p.m. by Commissioner Ann Mary Dussault. Also present was Commissioner Barbara Evans.

There were no items on the agenda and no public comments. The meeting was adjourned at 1:31 p.m.

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AUGUST 29, 1991

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

AUGUST 29, 1991 (Cont.)

DAILY ADMINISTRATIVE MEETING

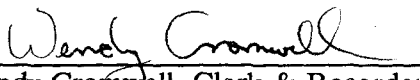
At the daily administrative meeting held in the forenoon, the following item was considered:

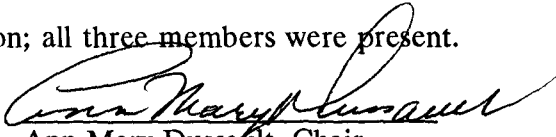
The Commissioners appointed Tom Lind as the second alternate member on the Larchmont Golf Course Board of Directors to fill an unexpired term through March 31, 1994.

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

AUGUST 30, 1991

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


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

SEPTEMBER 2, 1991

The Courthouse was closed for the Labor Day holiday.

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SEPTEMBER 3, 1991

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 reports for Justices of the Peace, David K. Clark and Michael D. Morris, for month ending August 30th, 1991.

DAILY ADMINISTRATIVE MEETING

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

Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Marty Walters for Lots 6 & 19, Lot 19, Hillview Heights #7, SUID #5813227, as per the terms set forth, for a total purchase price of \$31,920.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Addendum to Purchase Agreement

The Board of County Commissioners signed an Addendum to a Purchase Agreement between Missoula County and Marty Walters, purchaser of Amended Plat of Lots 6 & 19, Lot 19, Hillview Heights #7, SUID #5813227, signed on April 17, 1991, decreasing the sale price to \$20,000 as a result of rezoning to R-1, single family residential, with all other terms and conditions remaining the same. The Addendum was returned to Jim Dopp, Operations Officer, for further signatures and handling.

Resolution No. 91-074

The Board of County Commissioners signed Resolution No. 92-074, a resolution fixing the annual salary of the Missoula County Superintendent of Schools at \$34,870.00, as Mineral County will compensate Missoula County \$3,300 for the services of the Superintendent of Schools, as per terms of the service contract.

Community Service Placement Agreement

The Board of County Commissioners approved and signed a Community Service Agreement between Missoula county and Diane L. Morin, Coordinator, for the purpose of diverting selected defendants from jail placement, to assist non-profit and governmental agencies, and also provides a means for indigent or dependent offenders to "pay" the consequences of the offense by working at community service sites.

Other items included:

The Commissioners approved a request from John Pemberton, Director of Personnel, to allow the Anne Guest (Justice Court) grievance to proceed to hearing.

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

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SEPTEMBER 4, 1991

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 in Butte.

Audit List

Commissioners Barbara Evans and Janet Stevens signed the Audit List, dated September 4, 1991, pages 3-32, with a grand total of \$78,881.50. The Audit List was returned to the Accounting Office.

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:30 p.m. by Barbara Evans. Also present was Commissioner Janet Stevens.

SEPTEMBER 4, 1991 (cont.)HEARING: APPLICATION FOR NEW INDUSTRIAL PROPERTY TAX INCENTIVE
(MONTANA WOOD SPECIALTIES)

John DeVore, Administrative Officer, said that the hearing was requested by Montana Wood Specialties on their application for consideration of tax incentives under New or Expanding Manufacturing Industry.

This application involves certain questions since the original applicant, Montana Wood Specialties, is now in the process of selling the plant and equipment for which the tax incentive is sought to Tricon Timber which has joined the application. Since the incentive is directed toward the nature of the improvements rather than to the question of ownership, the change in ownership has no impact on the request, provided that the combined applicants can meet both the statutory criteria and the county's supplemental criteria. The statutory criteria are; 1) the investment by a new industry of \$500,000 in qualifying improvements and 2) the industry must be new to the jurisdiction. In conversations with the applicant, the dollar level of investment can easily be met but will need to be documented for the record. The second requirement that the industry be new to the jurisdiction is somewhat more difficult, since Montana Wood Specialties evolved from the operation conducted by and closed by Champion on the same site. It is, however, the conclusion of the County Attorney's office that this operation qualifies as new within the meaning of the statute on two independent grounds. First, the Montana Wood Specialties operation which is (and will remain) entirely a remanufacturing operation differs substantially from the sawmill operation of Champion even though Champion did do some remanufacturing on the site. This change in use complies with the expression "new" in terms of manufacturing classifications and work comp. classifications. Alternatively the purchase by Montana Wood Specialties of used equipment from Champion to begin a new business is new investment in the community which qualify's under the statute.

The applicant is in compliance with the statutes governing the application and is in compliance with the county requirements except for confirmation by the City/County Health Department that the facility will comply with all health-related requirements and verification that all taxes have been paid full. In discussions with the applicant these items are in the process of being completed. Therefore, staff recommends approval of the application contingent upon a submission of a favorable report by the Health Department and documentation that all taxes have been paid.

Tim Melgren, Director, Montana Wood Specialties testified that Montana Wood Specialties quit doing business in June to reevaluate their situation. Since that time, a buy-sell agreement has been drawn up between Montana Wood Specialties and Tricon Timber. Tricon's intent is to continue operations as before.

Harold Fraiser, Senior Vice President of First Interstate Bank, testified that First Interstate is in support of the tax incentives for Montana Wood Specialties.

Ron Klapahke, representing the Missoula Economic Development Corporation, explained that it is within the law to provide the tax incentive and encouraged the support of the Commissioners.

Janet Stevens asked about the estimated number of jobs this tax incentive will create.

Tim Melgren replied that Tricon intends to employ over and above the number stated in the information.

Janet Stevens stated that all of the other criteria except for proof that all the taxes have been paid and the Health Department approval have been met.

Janet Stevens moved and Barbara Evans seconded the motion that the Board approve the application contingent upon the submission of a favorable report by the Health Department and documentation that all taxes have been paid. Motion carried on a vote of 2-0.

Janet Stevens stated that all the other conditions requested by both the statute and County have been met.

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

* * * * *

SEPTEMBER 5, 1991

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

SEPTEMBER 5, 1991 (cont.)Corrected Monthly Report

Chair Dussault examined, approved and ordered filed the corrected monthly reconciliation reports for Justices of the Peace, David K. Clark and Michael D. Morris, for month ending August 30, 1991.

DAILY ADMINISTRATIVE MEETING

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

Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Patricia J. Rawlings, pertaining to Lot 25, Hillview Heights #7, SUID #5813281, dated April 18, 1991, as per the terms set forth, for a total purchase price of \$18,000.00. The Agreement was returned to Jim Dopp, Operations Officer for further handling.

Memorandum

The Board of County Commissioners received a Memorandum from Susan Reed, County Auditor, regarding cancellation of uncalled County Warrants over one year old, in compliance with MCA Section 7-6-2607(2),

Agreement

Chair Dussault signed an Agreement between Missoula County and the Montana Department of Health and Environmental Sciences (DHES), for the purpose of administering a local Montana's Initiative for the Abatement of Mortality in Infants (MIAMI) project within Missoula County, as per the terms set forth, to be completed by June 30, 1992, with payment to the County by DHES as per the schedule and conditions set forth. The Agreement was forwarded to DHES in Helena.

Lease Agreement

The Board of County Commissioners signed a Lease Agreement between Missoula County and the Montana Department of Social and Rehabilitation Services for the purpose of leasing 8240 square feet on the main floor of the Missoula County Health and Human Services Building located at 301 West Alder in Missoula, Montana, as per the terms set forth, for a period of three years, commencing July 1, 1991 and ending June 30, 1994, for a total amount of \$176,748.00 for the term of the lease, payable in equal quarterly installments. The Lease Agreement was returned to Jim Dopp, Operations Officer, for forwarding to SRS for further signatures.

Resolution No. 91-075

Resolution No. 91-075 was voided.

Resolution No. 91-076

The Board of County Commissioners signed Resolution No. 91-076, a resolution of intention to create Rural Special Improvement Maintenance District No. 913, for the purpose of park maintenance in Linda Vista Fifth Supplement, as described in the attachment to the Resolution and as per the terms set forth, at an estimated cost of \$125 per lot per year, setting the hearing date for September 25, 1991, at 1:30 p.m.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Women's Place for the purpose of providing comprehensive direct and indirect services to victims of domestic violence in Missoula County, as per the terms set forth, commencing July 1, 1991, and terminating on June 30, 1992, for a total cash value of \$12,110.00, contingent upon receipt of Montana Department of Family Services grant funds by Missoula County.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Warranty Deed and Settlement Statement from Missoula County to Ralph E. and Merna B. Strauch, buyers of Lot 11, Block 28 of Knowles Addition, as per the terms set forth. The documents were returned to Jim Dopp, Operations Officer, for further handling.

SEPTEMBER 5, 1991 (cont.)

Addendum to Purchase Agreement

The Board of County Commissioners signed an Addendum to the Purchase Agreement between Missoula County and Patricia J. Rawlings, purchaser of Lot 25, Hillview Heights #7, SUID #5813281, dated April 18, 1991, changing the purchase price to \$18,000 as a result of rezoning and reassessment, agreeing that the seller will pay in full SID's 491 and 434, and agreeing that the transaction is contingent upon approval of subdivision of property into six single family lots, with all other terms and conditions of the original agreement remaining the same. The Addendum was returned to Jim Dopp, Operations Officer, for further handling.

Other items included:

The Commissioners approved a request from County Auditor, Susan Reed, to remove the uncalled County warrants listed in her memo dated September 4, 1991, from the most current outstanding warrant listing.

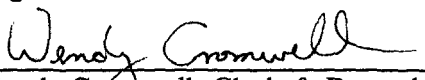
The minutes of the daily administrative meeting are on file in the Commissioners Office.

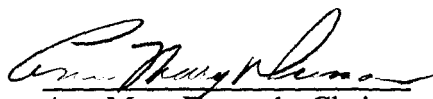
SEPTEMBER 6, 1991

The Board of County Commissioners did not meet in regular session; Commissioner Stevens was out of the office all day, Commissioner Evans was out of the office until noon, and Commissioner Dussault was out all afternoon.

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 August 20, 1991.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

SEPTEMBER 9, 1991

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 August 20, 1991.

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 30, 1991.

Audit List

Commissioners Barbara Evans and Janet Stevens signed the Audit List, dated September 4, 1991, pages 3-32, with a grand total of \$78,881.50. The Audit List was returned to the Accounting Office.

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 (DHES) for the purpose of assisting Missoula County to conduct its own air pollution control program pursuant to Section 75-2-301, MCA, as per the terms set forth, for a total payment not to exceed \$47,282.00, to be completed by June 30, 1992. The Agreement was forwarded to DHES in Helena.

SEPTEMBER 9, 1991 (cont.)

FISCAL YEAR:

Resolution No. 91-077

The Board of County Commissioners signed Resolution No. 91-077, a budget amendment for FY'92 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>Budget</u>
2270-612-447203-111 Perm Salaries	\$4,338
2270-612-447203-141 Fringe Benefits	1,029
2270-612-447203-206 Office Supplies	113
2270-612-447203-301 Postage	150
2270-612-447203-321 LD Phone Charges	120
2270-612-447203-328 Contracted Services	3,000
2270-612-447203-359 Mileage - Private Veh.	<u>250</u> \$9,000

<u>Description of Revenue</u>	<u>Revenue</u>
2270-612-331329 AIDS HIV Services	\$9,000

Resolution No. 91-078

The Board of County Commissioners signed Resolution No. 91-078, a budget amendment for FY'92 for the Youth Court, including the following corrections to expenditures to reflect actual amounts spent for this grant, and adopted it as part of the FY'92 budget:

	<u>Current</u>	<u>Should Be</u>	<u>Change</u>
2180-340-420152-206	\$ 340	\$ 1328	\$ 988
-307	375	427	52
-322	567	534	- 33
-327	3000	3250	250
-328	11952	12947	995
-341	150	250	100
-359	1360	1208	- 152
2180-340-333011	\$18200	\$19085	\$ 885

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Hellgate Writers, Inc., for the purpose of sponsoring a cultural and aesthetics project, as per the terms set forth, for a total payment not to exceed \$13,000.00, for a period of 24 months, commencing July 1, 1991 and ending June 30, 1993.

Tax Payment Agreement

The Board of County Commissioners signed a Tax Payment Agreement between Missoula County and Evelyn Forest for the payment of the real and personal property taxes due and owing on the property commonly known as Connie's Lounge and more particularly described as E 22' of Lot 15, W 8' of 16 C. P. Higgins Addition, (SUID #0660400) as per the terms set forth, for a total amount of \$32,298.31, to be paid as per the payment schedule set forth in the Agreement. Chair Dussault also signed a Quit Claim Deed to be delivered to the Taxpayer upon payment in full. The documents were forwarded to the Treasurer's Office.

Quit Claim Deed

The Board of County Commissioners signed a Quit Claim Deed from Missoula County to Evelyn Forest, for the premises described as E 22' of Lot 15 W. 8' of 16 C.P. Higgins Addition, a platted subdivision of Missoula County. The Deed was forwarded to the Treasurer's Office for further handling.

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

* * * * *

SEPTEMBER 10, 1991

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

Audit List

Commissioners Dussault and Stevens signed the Audit List dated September 9, 1991, pages 3-27, with a grand total of \$70,488.32. The Audit List was returned to the Accounting Office.

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 YWCA Domestic Violence Assistance Center for the purpose of providing crisis intervention, shelter and related services for victims of domestic violence in Missoula County, as per the terms set forth, commencing July 1, 1991, and ending June 30, 1992, for a total amount of \$13,000.00, contingent upon receipt of Montana Board of Crime Control grant funds by Missoula County.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Missoula Child and Family Resource Council for the purpose of providing program coordination, advocacy and education service to benefit victims of child abuse and neglect in Missoula County, as per the terms set forth, commencing July 1, 1991 and ending June 30, 1992, for a total amount of \$5,000.00, contingent upon receipt of Montana Board of Crime Control grant funds by Missoula County.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and the YWCA Domestic Violence Assistance Center for the purpose of purchasing comprehensive direct and indirect services to victims of domestic violence in Missoula County, as per the terms set forth, commencing July 1, 1991 and ending June 30, 1992, for a total cash value of \$14,160.00, contingent upon receipt of Montana Department of Family Services grant funds by Missoula County.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Missoula Child and Family Resource Council for the purpose of purchasing substance abuse prevention services for, and on behalf of, primary and secondary victims of child abuse in Missoula County, as per the terms set forth, commencing July 1, 1991 and ending June 30, 1992, for a total amount of \$4,166.00, contingent upon receipt of Montana Board of Crime Control grant funds by Missoula County.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and YWCA Domestic Violence Assistance Center for the purpose of purchasing substance abuse prevention services for, and on behalf of, primary and secondary victims of domestic violence in Missoula County, as per the terms set forth, commencing July 1, 1991 and ending June 30, 1992, for a total amount of \$2,200.00, contingent upon receipt of Montana Board of Crime Control grant funds by Missoula County.

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit between Missoula County and Tom Kraus of the Elkhorn Guest Ranch, Clinton, MT to encroach upon a portion of the Rock Creek Road right-of-way, limited to the existing sign, as per the terms set forth, for a period not to exceed ten years, renewable at the option of Missoula County.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Sonju's Office Management, an independent contractor, for secretarial, clerical and administrative duties as required or requested by the Seeley Lake Refuse Disposal District, as per the terms set forth, at a rate of \$8.00 per hour, commencing on July 1, 1991 and ending June 30, 1992. The Contract was forwarded to Terrie Sonju for signature.

Quitclaim Deeds

The Board of County Commissioners signed Quitclaim Deeds (3) from Missoula County to Missoula Investments, Inc., a Washington Corporation for the following three lots in Missoula County being redeemed by the taxpayer:

- 1) Lot 21 in Block 6 of West View Addition No. 3;
- 2) Lot 12 in Block 8 of West View Addition No. 3; and
- 3) Lot 19 in Block 6 of West View Addition No. 3.

The deeds were returned to Eric Scott at First Montana Title Company of Missoula.

Contract

Chair Dussault signed a Contract (92-021-6017) between Missoula County and Montana State Department of Family Services for the purpose of providing funding for a Domestic Violence Program to provide services to victims of domestic violence, as per the terms set forth, commencing July 1, 1991 and ending June 30, 1992, for a total payment not to exceed \$22,800.00. The Contract was returned to Cindy Klette, Grant Coordinator, for further handling.

Escrow Agreement

The Board of County Commissioners signed an Escrow Agreement and a Request for Full Reconveyance between Missoula County and Dennis W. and Mary H. Trigg, purchasers of Lot 33 of Grantland 13, a platted subdivision in Missoula County. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Notice of Hearing

Chair Dussault signed a Notice of Hearing on the status of the property adjacent to the fire station in Frenchtown, MT (Lots 7, 8, and 9, Block 8, Townsite of Frenchtown) to determine whether the property has been used as a public park and recreation ground and, if not, whether the dedication as a park should be dissolved, setting the hearing date for September 25, 1991, at 1:30 p.m.

Other items included:

As per a request received from the Secretary of State's office, the Commissioners appointed the following drivers' license bureau personnel in Missoula County as Deputy Registrars in and for the State of Montana for a term beginning October 1, 1991, and expiring March 15, 1994, so that they may register individuals to vote pursuant to State law: Denny Anglin, Virgil Brown, Dorothy Davis, and Merry Sims. The certificate of appointment was forwarded to Mike Cooney, Secretary of State.

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

* * * * *

SEPTEMBER 11, 1991

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 Albert W. and Laurie D. French for Lot 34, Hillview Heights #7, Missoula County SUID #5813378, as per the terms set forth, for a total purchase price of \$19,527.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Resolution No. 91-079

The Board of County Commissioners signed Resolution No. 91-079, a resolution establishing the number of members and terms of the Museum Board of Trustees pursuant to the provisions of Senate Bill No. 440, resolving that the Museum Board of Trustees will consist of five (5) members and two (2) alternates each serving three (3) year terms and appointed by the Board of County Commissioners.

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

WEEKLY PUBLIC MEETING

Commissioner Barbara Evans opened the public meeting at 1:35 p.m. Also present was Commissioner Janet Stevens.

BID AWARDS: PLANT MIX ASPHALTIC CONCRETE (SURVEYOR)

Barbara Evans, Commissioner, explained that bids for 3,000 tons of plant mix asphaltic concrete were opened September 9th, 1991 at 10:00 a.m. with the following results:

	<u>Price/Ton</u>	<u>Total Price</u>
Western Materials	\$19.40	\$58,200.00
Idaho Asphalt Supply	NO BID	
American Asphalt	\$17.95	\$53,850.00
Jensen Paving Co.	\$13.84	\$41,520.00

Staff recommends that Jensen Paving Co. be awarded the bid as the lowest and most responsive bidder.

Janet Stevens moved and Barbara Evans seconded the motion to award the bid to Jensen Paving Co. for \$41,520.00 as the lowest and most responsive bidder. This is within the budget of \$50,000.00. Motion carried on a vote of 2-0.

At this point, Commissioner Ann Mary Dussault arrived and assumed the Chair.

BID AWARDS: 36" RECENTLY REBUILT CRUSHER CONE (SURVEYOR)

Ann Mary Dussault explained that there were no bids received for the 36" recently rebuilt crusher cone (Surveyor).

Horace Brown, Surveyor, commented that because there were no bids submitted, the old crusher cone would be rebuilt. This will be cheaper than buying a rebuilt one.

BID AWARDS: SEVEN (7) NEW 1992 4-DOOR SEDANS -- POLICE PACKAGE (SHERIFF)

Ann Mary Dussault explained that on August 23, 1991 bids for seven (7) new 1992 4-door sedan police vehicles were solicited and accepted until 10:00 a.m. September 9, 1991 with one bid submitted:

Karl Tyler Chevrolet \$110,321.00/with trade-in

The bid has one exception: Right hand remote control mirror is not available unless power windows are ordered.

Don Mormon, Sheriff's Department, stated that the budget for the vehicles is \$120,000.00. Power windows would be an extra \$300.00 per unit.

Barbara Evans moved and Janet Stevens seconded the motion to award the bid for the seven police cars to Karl Tyler Chevrolet for \$110,321.00 as the lowest and best bid with the exception that the right hand remote control mirrors will not be included. The motion carried on a vote of 3-0.

BID AWARDS: UPGRADE SLI PHONE SWITCH (GENERAL SERVICES)

Ann Mary Dussault stated that bids were requested for the upgrade of additional telephone parts and digital sets. One bid was received:

Centel Corp. \$58,241.00

Jim Dopp, General Services, explained that the budget for the upgrade is \$60,000.00. The upgrade will increase the number of lines available. The lines could be installed in November.

SEPTEMBER 11, 1991 (cont.)

Barbara Evans moved and Janet Stevens seconded the motion to award the bid for the SLI Phone Switch to Centel Corp. as the only bidder in the amount of \$58,241.00. Motion carried on a vote of 3-0.

HEARING: PETITION FOR ANNEXATION TO MISSOULA RURAL FIRE (2 PARCELS OF LAND - SECTION 2, T. 13 N., R. 17 W.)

Ann Mary Dussault explained that a petition has been 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 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.

Ann Mary Dussault opened the hearing for public comment.

As there were no comments the hearing was closed.

Barbara Evans moved and Janet Stevens seconded the motion to approve the annexation to the Missoula Rural Fire District of the two parcels of land which are stated in the petition. Motion carried on a vote of 3-0.

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

* * * * *

SEPTEMBER 12, 1991

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. 91-080

The Board of County Commissioners signed Resolution No. 91-080, a resolution to annex to the Missoula Rural Fire District two parcels of land located in Section 2, T.13 N., R. 17 W., PMM and further described in the Resolution, resolving that these parcels of land be included within the Missoula Rural Fire District and are to be assessed a fire district levy along with other property already a part of the District.

Other items included:

The Commissioners made the following board appointments:

- 1) Gary Boe was appointed as the "2nd alternate member" of the Missoula County Airport Authority; and
- 2) Kathleen Breuer was appointed to the City-County Animal Control Board to fill the unexpired term of Patricia Lifvendahl through December 31, 1992.

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

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SEPTEMBER 13, 1991

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

Election Canvass

The Canvass of the City Election of September 10, 1991, scheduled for September 13, 1991, was postponed until Monday, September 16, 1991, at 11 a.m.

Agreement

The Board of County Commissioners signed a Letter of Agreement between the Missoula County Sheriff's Department and Montana State University College of Nursing for the purpose of student placement for clinical experiences at the Missoula County Detention Center, as per the terms set forth, for an indefinite period of time, with a semester-by-semester evaluation of availability of experiences, needs and availability of agency staff, and the clinical needs of the nursing students and availability of faculty. The Agreement was returned to Lt. Clay Hopper in the Sheriff's Department for further handling.

*Wendy Cromwell by
Vickie M. Zier, deputy*
Wendy Cromwell, Clerk & Recorder

Ann Mary Dussault
Ann Mary Dussault, Chair

SEPTEMBER 16, 1991

The Board of County Commissioners did not meet in regular session. Commissioner Stevens was out of town from Monday, September 16, 1991, through Thursday, September 19, 1991; and Commissioner Evans was out of the office until late afternoon to attend two funerals.

Acceptance of Grant Award

Chair Dussault signed acceptance of the grant awarded to Missoula County, 4th Judicial District Youth Court, the 1991 Juvenile Justice Funds, by the Board of Crime Control in the amount of \$16,156.00, for the period from January 1, 1992, through December 31, 1992, subject to the terms and conditions set forth. The Acceptance was returned to Murray Pierce in Youth Court for further handling.

Election Canvass

In the forenoon, Commissioner Dussault, County Auditor Susan Reed, and County Superintendent of Schools Rachel Vielleux canvassed the results of the City Election, which was held Tuesday, September 10, 1991.

SEPTEMBER 17, 1991

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 September 17, 1991, pages 3-28, with a grand total of \$94,270.72. 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 Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #17 (8/4/91 through 8/17/91), with a total Missoula County Payroll of \$379,938.79. 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 #18 (8/18/91 through 8/31/91), with a total Missoula County Payroll of \$386,715.96. The Transmittal Sheet was returned to the Auditor's Office.

Loan and Repayment Agreement

The Board of County Commissioners signed a Loan and Repayment Agreement between Missoula County and Bikecentennial Inc. Whereas Bikecentennial Inc. has submitted a loan application to the Department of Housing and Urban Development, which has been approved by HUD, and work on their project has commenced. The contractor has submitted an initial claim; and the County has agreed to provide a short term zero interest loan to Bikecentennial Inc., in the amount of \$61,063.38 in order to allow the contractor, Rod Huff of Huff Construction, to be paid and the work on the project to continue. The loan will be repaid from HUD funds which will be wire transferred to First Bank Western after final review and approval of all loan documents, at which time repayment shall be made to Missoula County by Bikecentennial, Inc., immediately after the funds are transferred by HUD.

Certificate of Survey Agricultural Exemption

The Board of County Commissioners signed approval of a Certificate of Survey showing an agricultural parcel and remainder in the NE 1/4 SE 1/4 of Section 24, T. 13 N., R. 16 W., PMM, with the owners of record being John P. Corkran and Dennis Iverson, who certify that the purpose of this division of land is to create a parcel for agricultural or pasture use and that no building or structure requiring water or sewage facilities may be erected or utilized thereon.

Resolution No. 91-081

The Board of County Commissioners signed Resolution No. 91-081, a resolution relating to the Board of Investments' Intermap Program for the purpose of approving and authorizing participation therein and approving the commitment agreement, which sets forth the principal amount of the installment purchase contract, \$180,652.00, and lists the items to be financed or refinanced, the telephone system upgrade, four motor pool vehicles, and four 4 x 4 vehicles. The documents were returned to John DeVore, Administrative Officer, for further handling.

Operating and Financial Plan

Chair Dussault signed an Operating and Financial Plan, dated September 12, 1991, between Missoula County and the U. S. Forest Service, for the period beginning October 1, 1991, and ending September 30, 1992, and becomes part of the original Agreement between the parties dated October, 1983; whereby the Forest Service agrees to sponsor senior deputy David Ball for an Explosives Investigation Class hosted by Spokane Police and Sheriff's Department--the Hazardous Device and Training Seminar will be held October 8th through October 10th in Spokane, WA and will cost approximately \$250. The document was returned to the Sheriff's Department for further handling.

Contract Amendment

The Board of County Commissioners signed an amendment to Contract No. RRD-91-5544 Section 4. Scope of Work, Objective 3. Equipment Purchase/Instructions between Missoula County and the Department of Natural Resources and Conservation, authorizing the County to purchase a gas chromatograph for \$14,000 from Wet-Tech Supply Company for the HAZMAT Team, as the need and importance were confirmed and the advantageous price warrants amending the contract at this time. The amendment was returned to DNRC for signature.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and the City of Missoula, whereby the City will remit the unused portion of the tax increment urban renewal monies to the County for Fiscal year 1991-1992 in the amount of \$47,881.38, which represents County-wide School's proportionate amount of the total tax levies lawfully set on property in the City's urban renewal district. The Agreement was returned to the City for signatures and handling.

Other items included:

The Commissioners made the following appointments to the Museum Board of Trustees:

SEPTEMBER 17, 1991 (cont.)

- 1) Doug Anderson, representing the Friends of the Art Museum, was appointed as a member of the Board, effective October 1, 1991, through June 30, 1993;
- 2) Lorin Hearst, representing the Friends of the Historical Museum, was appointed as a member of the Board, effective October 1, 1991, through June 30, 1994; and
- 3) Maxine Blackmer was appointed as an "alternate" member of the Board, effective October 1, 1991, through June 30, 1994.

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

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SEPTEMBER 18, 1991

The Board of County Commissioners did not meet in regular session; Commissioner Dussault was in Helena attending a meeting of the MACo Taxation and Finance Committee.

WEEKLY PUBLIC MEETING - CANCELED

The Weekly Public Meeting scheduled for this date was canceled as two of the Commissioners were out of town.

* * * * *

SEPTEMBER 19, 1991

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:

Agreement

The Board of County Commissioners signed an Agreement, dated September 16, 1991, between Missoula County and the Walter Vannoy Ranch of Greenough, Montana for the purpose of the County obtaining pit run and crushed gravel as required from the Walter Vannoy Ranch property located in Section 35, T. 15 N., R. 14 W. and Section 5, T. 14 N., R. 14 W., as per the rates and terms set forth, for a period of 6 months, with an extension of time if necessary.

Resolution No. 91-082

Chair Dussault signed Resolution No. 91-082, a resolution relating to \$186,000 pooled RSID bonds (RSID Nos. 439, 440, 441, and 444) Series 1991; fixing the form and details and providing for the execution and delivery thereof and security therefor. The Resolution was returned to John DeVore, Administrative Officer, for further handling.

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit, whereby the County agrees to permit Jim and Doris Ekstrom of the Ekstrom Stage Station of Rock Creek Road in Clinton, MT to encroach upon a portion of Rock Creek Road right-of-way, with the encroachment limited to the existing sign, as per the terms set forth, effective for a period not to exceed ten years, renewable at the option of the County.

Other items included:

The Commissioners agreed that the check received by Larchmont Golf Course from the State for right-of-way be deposited in the Open Space Fund until the Larchmont Board makes a recommendation to the Commissioners as to what to do with the money.

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

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SEPTEMBER 20, 1991

FISCAL YEAR: 92 PAGE 057

The Board of County Commissioners met briefly in the morning; all three members were present. During the day, Commissioner Dussault spoke at the "Personnel in Employment Security" Fall Institute held at the Holiday Inn; and Commissioner Stevens attended a Mental Health Board Meeting held at Fort Missoula during the day and also spoke to the League of Cities and Towns Convention at noon at the Holiday Inn.

Indemnity Bond

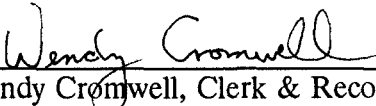
Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Toole and Easter, Inc. as principal for warrant No. 7567, dated May 14, 1991, on the Missoula County General Fund in the amount of \$74.95, now unable to be found.

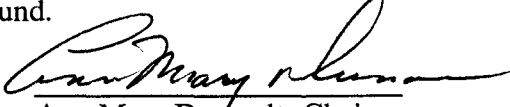
Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Bruce Zinne as principal for warrant No. 24877, dated May 10, 1991, on the Missoula County High Schools' Insurance Trust Fund in the amount of \$39.46 now unable to be found.

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Lisa Soucie as principal for warrant No. 109159, dated September 6, 1991, on the School District #1 Payroll Fund in the amount of \$41.44 now unable to be found.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

* * * * *

SEPTEMBER 23, 1991

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 the Missoula Cultural Exchange for the purpose of sponsoring cultural and aesthetics projects in Missoula County, as per the terms set forth, for a total amount of \$10,000.00, commencing July 1, 1991 and ending June 30, 1993.

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit, whereby the County agrees to permit the Montana Department of Fish, Wildlife, and Parks in Missoula to encroach upon a portion of Humble right-of-way, with the encroachment limited to the planned parking area, as per the terms set forth, effective for a period not to exceed ten years, renewable at the option of the County.

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit, whereby the County agrees to permit Doug and Carolyn Persico of the Rock Creek Store on Rock Creek Road in Clinton, MT to encroach upon a portion of Rock Creek Road right-of-way, with the encroachment limited to the existing two signs, as per the terms set forth, effective for a period not to exceed ten years, renewable at the option of the County.

Other items included:

- 1) The Commissioners approved a request from Sam Yewusiak, Manager of the Western Montana Fair, for permission for expenditures from their FY'92 budget as listed in his memorandum dated September 17, 1991;
- 2) The Commissioners approved a request from Rustem Medora, a member of the Missoula Aging Services Board, for an eight-month leave of

SEPTEMBER 23, 1991 (cont.)

absence, and that Mike Jakupcak, an alternate member, replace him on the Board during his absence; and

- 3) Vision Plan FY'93 Changes as submitted by Hal Luttschwager, Risk Manager, were approved by the Commissioners.

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

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SEPTEMBER 24, 1991

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 Pleasant Acres No. 2, a subdivision of Tract D3 of COS No. 3841 located in the NW 1/4 of Section 9, T.13 N., R.20 W., P.M.M. in Missoula County, with the owners of record being West Missoula Land, Inc., John H. Stiegler, President.

Agreement

The Board of County Commissioners signed an Agreement between the Missoula County Sheriff's Office and the Missoula Rural Fire District, whereby the District will provide the Sheriff with its expertise on situations involving hazardous materials upon request by the Sheriff's Department; and as compensation for this service, the Sheriff will transfer to the District a 1989 Dodge Laser, which may be used by the District for any purpose. The Agreement shall be for a term of five years, unless earlier terminated, at which time the District shall transfer the title of the vehicle back to the Sheriff. The Agreement was returned to Bill Reed at Missoula Rural Fire for further signatures.

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

* * * * *

SEPTEMBER 25, 1991

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 24, 1991, pages 5-36, with a grand total of \$123,190.58. 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 between Missoula County and Associates for Hearing and Speech, an independent contractor, for the purpose of obtaining sound level readings in a County office to verify accurately the noise level at the work site, as well as screening the hearing of those individuals exposed to that noise, as per the terms set forth, for a payment not to exceed \$400.00 commencing September 26, 1991 and ending October 31, 1991.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and the Missoula County Fair Board for the purpose of assisting in financing, through the capital improvements fund, the cost to purchase the MARSDA Building, as per the terms set forth, for a total amount not to exceed \$170,000.00, at an interest rate of 6.5% annually, to be repaid yearly by the Fair

SEPTEMBER 25, 1991 (cont.)

Board for a period not to exceed five years, ending November 30, 1997. The Agreement was returned to Sam Yewasiak, Fair Manager, for further signatures.

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit, whereby the County agrees to permit Daniel R. and Linda K. Hamann McDonell of O'Brien Creek Road to encroach upon a portion of O'Brien Creek Road right-of-way, with the encroachment limited to the landscaping east and west of the driveway approach and those six spruce trees east of the driveway approach shall be a maximum height of six feet for sight distance control, as per the terms set forth, effective for a period not to exceed ten years, renewable at the option of the County.

Letter of Understanding

Chair Dussault signed a Letter of Understanding between Missoula County and the Missoula County Airport Authority, whereby the parties understand and agree that:

- 1) the operation of the Missoula International Airport should be self sustaining to the extent possible;
- 2) the Authority intends to issue revenue bonds in sufficient amounts to retire the currently outstanding bonds issued by Missoula County for construction of the terminal building;
- 3) the County will transfer all of its right, title, and interest in the real and personal property comprising Missoula International Airport to the Missoula County Airport Authority; and
- 4) the Authority agrees to forego the proceeds of the 1991-1992 two mill levy certified pursuant to the requirements of the County bond document, even though it is impossible for the Authority to permanently waive its right to request a tax levy pursuant to 67-10-402 M.C.A.; however, the Authority has no present intention to request a tax levy in the foreseeable future if they are successful in refinancing the outstanding bonds.

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

WEEKLY PUBLIC MEETING

Chair Ann Mary Dussault opened the Public Meeting at 1:35 p.m. Also present were Commissioners Janet Stevens and Barbara Evans.

HEARING: RESOLUTION OF INTENT TO CREATE RSID NO. 913 (PARK MAINTENANCE - LINDA VISTA FIFTH SUPPLEMENT)

Ann Mary Dussault explained from information received from John Devore, Administrative Office, that this is a hearing on the creation of RSID 913 for the purposes of financing the installation of improvements and maintenance of the park area which serves Linda Vista #5.

When Linda Vista #5 and the various supplements were filed, it was a requirement of that process to create a Park Maintenance RSID to insure there would be funds to maintain the park area which was part of the subdivision filing. the original requirements of the RSID were for maintenance cost only with an annual charge of \$50 per lot. Each lot owner waived their right to protest this RSID at the time of purchase. when we began the process of actually creating the RSID, we were contacted by various homeowners regarding the feasibility of expanding both the scope and cost of the original RSID. The general feeling was to attempt to create an RSID which could not only finance the maintenance cost, but also begin to install some improvements to area rather than waiting. The County Attorney's office ruled that if the original cost and scope were changed, the original waivers of protest were no longer valid and we would have to take this concept to hearing. The specific purpose of this hearing is to consider the expanded cost \$125.00 per year per lot and the expanded scope which includes recreation equipment. During the protest period, we received a petition representing 52% of those paying the cost protesting the creation of this expanded scope. The statutory test is 51% and when that is achieved, there can be no further consideration of the issue for one year.

John DeVore, Administrative Officer, recommends that since the statutory protest requirements were reached, the Board of County Commissioners create RSID 913 under the original conditions, costs not to exceed \$50 per year per lot and the purposes to be limited to park maintenance only.

Ann Mary Dussault opened the hearing to public comment.

Susan Brewer asked if because 51% of the homeowners protested, the new RSID would be tabled for one year and the cost would remain at \$50 a year.

SEPTEMBER 25, 1991 (cont.)

FISCAL YEAR:

Ann Mary Dussault stated that the original RSID will remain the same.

Ann Mary Dussault asked if there was any further comment from the public. There being none, the hearing was closed.

Barbara Evans asked if there were to be new development in this area and if they get the desired number of people who wanted to add to the equipment, does this SID continue or would it be absorbed by a new SID that would expand things?

John Devore said that two things could be done. 1. If the home owners association can present written evidence that the majority of homeowners are in favor of the expansion and increased cost, administratively the County would adjust the budget accordingly. A hearing may be helpful just to add validity to the decision. 2. The other option would be to leave the original RSID alone and create a development RSID.

Mike Sehestedt stated that the best method would be to create a new RSID.

Barbara Evans moved and Janet Stevens seconded the motion to create RSID No. 913 based on the original RSID that was proposed at \$50.00 per lot per year. It should be recognized that the proposed RSID for the \$150 per lot per year cannot be returned to the Board of County Commissioners for a year. Motion carried on a vote of 3-0.

HEARING: STATUS OF COUNTY PROPERTY ADJACENT TO THE FRENCHTOWN FIRE STATION IN FRENCHTOWN, MONTANA

Ann Mary Dussault explained from information received from Mike Sehestedt, Deputy County Attorney, that this is a hearing to determine whether the property adjacent to the Frenchtown Fire Station has been used as a public park.

The property in question is county tax deed property which was set aside for park purposes by commission resolution in 1970. The resolution provided that if the property was not used for park purposes the dedication would be dissolved and the property made available for other purposes.

Michael Sehestedt, Deputy County Attorney, recommended that a determination should be made from the testimony whether the dedication should be dissolved and the property made available for other purposes.

Mike Sehestedt stated that this is an area in which the County acquired a number of lots in Frenchtown. The resolution stated that if the dedicated parkland was not used for public park and recreation purposes, the dedication would be dissolved and it then would be available for other County uses. The Frenchtown Fire District is interested in acquiring this property for additional departmental use. The first step is to determine if it is still subject to park dedication or if that's been lost by non-use.

Ann Mary Dussault opened the hearing for public comment.

Scott Waldron, Frenchtown Fire Chief, said that they had done research into the land, and had found that in the past 10 years, the land had not been used specifically for park land. The fire Department had maintained the SID's, along with the upkeep of the lawn.

Barbara Evans asked if the land reverted back to the county, would the Frenchtown Fire Department would have to purchase the land.

Mike Sehestedt said it first had to be determined that the land had not been used as park and whether the dedication should be dissolved.

Ann Mary Dussault stated for the record that no correspondence had been received regarding the matter of use of the property. No one else came forward to speak, and the hearing was closed.

Barbara Evans moved and Janet Stevens seconded the motion based on the fact that no protests had been lodged with the County, and there was no one at the Public Meeting to speak in opposition or to state that it had indeed been used as park, that the County dissolve the original dedication of County property adjacent to the Frenchtown Fire Station where it was made a park. The motion carried on a vote of 3-0.

SEPTEMBER 25, 1991 (cont.)

FISCAL YEAR:

HEARING: AMENDING THE AIRPORT AREA INDUSTRIAL TAX INCREMENT DISTRICT
(DELETING THAT PORTION OF THE DISTRICT NOW INCLUDED IN THE CITY LIMITS)

Ann Mary Dussault explained from the information received from John DeVore, Administrative Officer, that this was a hearing on amending the boundaries of the Airport Area Industrial Tax Increment District.

On March 20, 1991 Resolution No. 91-29 was adopted by the Board of County Commissioners which in part established the boundaries for the Airport Area Industrial tax Increment District. A portion of the properties included in the District are located within the jurisdictional boundaries of the City of Missoula. The process for establishing Industrial Tax Increment Districts requires notification of all affected taxing jurisdictions. The City of Missoula was not notified prior to the public hearing held to consider the issue. As a result of that failure, the City of Missoula has raised objections for inclusion of properties located with their jurisdictional boundaries within the District and have requested the Board of County Commissioners to consider amending the Tax Increment District boundaries to exclude those properties from the District.

Based on the failure to notify the City of Missoula as an affected taxing jurisdiction, John DeVore recommends that the Board of County Commissioners amend the District boundaries to exclude those properties located within the City of Missoula.

Ann Mary Dussault opened the hearing to public comment.

Al Sampson, President of the Missoula City Council, said that he hoped that the Board would exclude the area for two reasons. 1. The blighted area does not fall under the area of blight because of the infrastructure that is in place in that particular area. 2. In the future, a fire station will be placed in this immediate area. This may help to generate more building, and the City needs whatever tax base they can get in this area.

Dennis Taylor, Chief Administrative Officer of the City of Missoula, stated that the City thinks that there was a procedural error with the way the Washington Industrial Park had been added. At the last minute the taxing jurisdictions were not aware of that proposed parcel being a part of the district. They did not have a chance to jointly participate in the determinations of whether it was appropriate. The City asked that the Commissioners support the Staff Recommendation to amend the district to remain within the city.

Ann Mary Dussault closed the hearing as there were no further comments from the public.

Barbara Evans moved and Janet Stevens seconded the motion to amend the boundaries of the tax increment district that includes the Dennis Washington property to delete it based on the fact that the City was not notified at the time the County was intending to include it and also for the reasons that have been stated in this hearing. Chair Ann Mary Dussault voted no. Motion carried on a vote of 2-1.

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

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SEPTEMBER 26, 1991

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 William Hrouda as principal for warrant No. 110004, dated September 20, 1991, on the Missoula County SD #1 Payroll Fund in the amount of \$337.52 now unable to be found.

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Quill Corporation as principal for warrant No. 7286, dated July 9, 1991, on the School District #34 General Fund in the amount of \$61.25 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

SEPTEMBER 26, 1991 (cont.)

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #19 (9/1/91 through 9/14/91) with a total Missoula County Payroll of \$384,791.68. The Transmittal Sheet was returned to the Auditor's Office.

Payroll Transmittal Sheet

The Board of County Commissioners signed a special Fair Payroll Transmittal Sheet for Pay Period 8/13/91 through 8/26/91, with a total Fair Payroll of \$77,520.96. The Transmittal Sheet was returned to the Auditor's Office.

Contract

The Board of County Commissioners signed a Contract between Missoula County and WilTel Communications Systems, Inc., for the purpose of upgrading the SL1 phone switch as per bid specifications, for a total amount not to exceed \$58,241.00, and to be completed no later than November 15, 1991. The Contract was returned to Billie Jette in Centralized Services for further handling.

Resolution No. 91-083

The Board of County Commissioners signed Resolution No. 91-083, a budget amendment for FY'92 for the Library, including the following expenditures and revenue, and adopted it as part of the FY'92 budget:

Description of Expenditure	Budget	
2220-410-460185-111 Personnel	\$ 14,430.00	
-141 Fringe	3,065.00	
-364 Travel & Trg	1,718.00	
-206 Supplies	3,318.00	
-322 Phone	550.00	
-301 Postage	325.00	
-311 Printing	1,120.00	
-328 Contracted Services	1,724.00	
-945 Equipment	7,600.00	
-960 Books	1,150.00	\$35,000.00

Description of Revenue	Revenue
2220-410-331216 Literacy Grant '92	\$ 35,000.00

Budget Transfer

The Board of County Commissioners approved and signed the following budget transfer request for the Library and adopted it as part of the FY'92 budget:

No. 920004, a request to transfer \$6,275 from the Personnel - 460110 (\$5,000) and Benefits - 460110 (\$1,275) accounts to the Personnel - 460185 (\$5,000) and Benefits - 460185 (1,275) accounts as the County match for Literacy Grant '92.

Release of Loan and Repayment Agreement

The Board of County Commissioners signed a Release of Loan and Repayment Agreement, whereby the County releases Bikecentennial Inc., from the Loan and Repayment Agreement dated September 17, 1991, and recorded at Book 337 of Micro Records at page 537, for value received. The Release was returned to Cindy Wulfekuhle, Block Grants Coordinator, for further signatures and handling.

Bond Closing Documents

Chair Dussault and Wendy Cromwell, County Clerk & Recorder/Treasurer, signed the Bond Closing Documents for the \$186,000 Pooled Rural Special Improvement District Bonds (Pooled Rural Special Improvement District Nos. 439, 440, 441 and 444), Series 1991, of the County, dated, as originally issued, as of September 1, 1991, as per the Resolution adopted on September 19, 1991.

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

SEPTEMBER 27, 1991

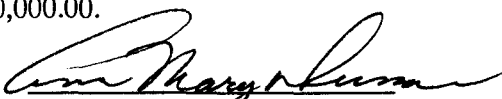
FISCAL YEAR:

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

Plat and Subdivision Improvements Agreement and Guarantee

The Board of County Commissioners signed the plat for River Court Addition, a re-subdivision of Lot 11, Cobbin & Dismore's Orchard Homes Addition No. 2 in Missoula County, a total gross area of 4.75 acres, the owner of record being GES Inc., Grant E. Schermer, President, and cash in lieu of park land has been paid to the County Treasurer in the amount of \$4,516.67. The Commissioners also signed a Subdivision Improvements Agreement and Guarantee for River Court Addition between Missoula County and Grant Schermer, agreeing that the improvements which remain to be completed are the building of the road with curb and gutter serving the subdivision and the sewer system and that the remaining improvements must be completed within two years of filing the final plat; as security for completing these improvements, the Guarantor is providing real estate located at Lot 5 of River Court Addition which has a value of at least \$100,000.00.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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SEPTEMBER 30, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was on vacation from September 30th through Wednesday, October 2nd.

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Patricia Mandzak as principal for warrant #8921, dated January 20, 1991, on the Hellgate Elementary School District #4 Payroll Fund in the amount of \$80.77 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 91-084

The Board of County Commissioners signed Resolution No. 91-084, a resolution extending the recommended fire season for 15 days from September 30th to October 15, 1991, and resolving that no open burning shall be allowed without having obtained an official written permit from the recognized protection agency.

Resolution No. 91-085

The Board of County Commissioners signed Resolution No. 91-085, a resolution dissolving Frenchtown Park dedication of Lots 7, 8, and 9, Block 8, Townsite of Frenchtown in order to make the property available for other County or public purposes.

Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Jack I. and Billie L. Nelson for 7 lots in Hillview Heights No. 7--Lot 41 (SUID 5813445), Lot 43 (SUID 5813461), Lot 44 (SUID 5813461), Lot 45 (SUID 5813487), Lot 46 (SUID 5813490), Lot 47 (SUID 5813509), and Lot 48 (SUID 5813512), as per the terms and contingencies set forth, for a total purchase price of \$120,609.00, as per the counter offer accepted by the Commissioners, and with the earnest money increasing to \$3,000 upon acceptance of the buy/sell. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Jack I. and Billie L. Nelson for 5 lots in Hillview Heights #7--Lot 42 (SUID 5813458), Lot 37 (SUID 5813403), Lot 38 (SUID 5813416), Lot 39 (SUID 5813429), and Lot 40 (SUID 4813432), as per the terms and contingencies set forth, for a total purchase price of \$85,344.00, as per the counter offer accepted by the Commissioners, and with the earnest money being increased to \$1,500 no later than May 1, 1992. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

SEPTEMBER 30, 1991 (cont.)Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Jack I. and Billie L. Nelson for 4 lots in Hillview Heights #7--Lot 30 (SUID 5813336), Lot 31 (SUID 5813349), Lot 32 (SUID 5813352), Lot 33 (SUID 5813365), as per the terms and contingencies set forth, for a total purchase price of \$76,269.00, as per the counter offer accepted by the Commissioners. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Proclamation

The Board of County Commissioners signed a Proclamation, resolving that the Mayor of the City of Missoula and the Commissioners of Missoula County proclaim October 19-27, 1991 as Red Ribbon Week to encourage citizens to participate in drug prevention education activities, making a visible statement that we are strongly committed to a drug-free community.

Memorandum of Understanding

The Board of County Commissioners signed a Memorandum of Understanding between Missoula County, Lolo National Forest and the State of Montana, Office of the Governor for the purpose of establishing a cooperative procedure concerning any development proposal generated by the private sector that would have direct or indirect effect on the signatories, and for recognition of the goals and responsibilities of each agency as they pertain to possible construction of resorts or other developments on lands under Forest Service, State or private jurisdiction and where there are County and State responsibilities for services and local control, as per the terms and objectives set forth. The Memorandum was returned to Pat O'Herren in the Rural Planning Office for further signatures and handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Sydne Stephens, an independent contractor, for the purpose of professional nursing services as required to persons incarcerated in the Missoula County Detention Center, as per the terms set forth, commencing July 1, 1991 and ending June 30, 1992.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Warranty Deed and Settlement Statement from Missoula County to Dale Miller and Sylvia Vandinther, purchasers of the premises described as Lot 3 of Parcel F of Hillside Home Addition No. 1, of Supplemental Plat A in the City of Missoula, Missoula County, Montana according to the Official Plat of record in Book 11 of Plats at Page 25, records of Missoula County, Montana. The Deed was returned to Jim Dopp, Operations Officer, for further handling.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Warranty Deed and Settlement Statement from Missoula County to Dan D. Miller, purchaser of the premises described as Lot 3A of Parcel F of Hillside Home Addition No. 1, of Supplemental Plat A in the City of Missoula, Missoula County, Montana according to the Official Plat of record in Book 11 of Plats at Page 25, records of Missoula County, Montana. The Deed was returned to Jim Dopp, Operations Officer, for further handling.

Disclaimer of Interest and Quit Claim Deed

Chair Dussault signed a Disclaimer of Interest in Tenant-Owned Improvements for the State of Montana Highway Department Right-of-Way Bureau, whereby the County disclaims any right, title, interest or estate in the Community Medical Center Sign located on County-owned land on Reserve Street, and authorizes the Department of Highways to negotiate with the Lessee and to compensate them directly for the improvements described above. The Commissioners also signed a Quit Claim Deed for Project No. M 8103(3), granting to the Department of Highways a tract of land in the NE 1/4 NE 1/4 of Section 31, T. 13 N., R. 19 W., Missoula County, described more particularly on the Deed. The documents were forwarded to Don Bloom and the Department of Highways, Right-of-Way Bureau, in Helena.

Other items included:

The Commissioners approved an Addendum to Resolution No. 82-135, the Missoula County Fixed Asset Policy, eliminating acquisition sheets for assets with a value less than \$500 in order to reduce paperwork.

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

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OCTOBER 1, 1991

The Board of County Commissioners did not meet in regular session; Commissioner Dussault attended the MACo District 10 & 11 Counties Meeting in Polson, and Commissioner Stevens was on vacation through October 2nd.

Audit List

Commissioners Evans and Dussault signed the Audit List dated September 30, 1991, pages 6-24, with a grand total of \$69,359.16. The Audit List was returned to the Accounting Office.

Indemnity Bond

Acting Chairman Evans examined, approved and ordered filed an Indemnity Bond naming National Journal, Inc. as principal for warrant No. 23093, dated February 11, 1991, on the Missoula County High Schools Fund in the amount of \$30.45 now unable to be found.

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OCTOBER 2, 1991

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 reports for Justices of the Peace, David K. Clark and Michael D. Morris, for month ending September 30, 1991.

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:30 p.m. by Chair Ann Mary Dussault. Absent were Commissioners Barbara Evans and Janet Stevens.

There being no quorum of the Board as well as no items on the agenda and no public comments, the meeting was recessed at 1:31 p.m.

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OCTOBER 3, 1991

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Dussault left at noon for Vancouver, BC where she will be attending a Northwest Policy Center Leadership Council Meeting through October 8th.

DAILY ADMINISTRATIVE MEETING

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

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Warranty Deed from Missoula County to Frederick D. Chadwick, purchaser of the premises described as Lot 3 of Grantland 13, a platted subdivision in Missoula County, Montana, subject to the conditions set forth. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and William J. Koch for Lot 4 of Grantland #12, as per the terms set forth, for a total purchase price of \$11,700.00, and contingent on the closing of 7400 Rosewood Court by October 4, 1991. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Petition for Vacation

The Board of County Commissioners signed a Petition for Vacation, petitioning the City of Missoula to vacate Lots 1-14, Block 4 of Hillview Heights #6, Lodger Court in its entirety and the related common area included in the approved summary plat of Lolo View Heights #2, as the County is owner

OCTOBER 3, 1991 (cont.)

by tax deed of this property and has entered into a buy/sell agreement on this parcel with Patrick J. Lawler, Helen Garrick and Collin Bangs.

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit, agreeing to permit Donald and Erika Scheben of Pearl River, New York, to encroach upon a portion of a county parkway located in the NW 1/4 SE 1/4 of Section 25, T12N, R20W, P.M.M., as shown on the Encroachment Survey, Rodeo Ranchettes--Phase 2, as per the terms and conditions set forth, effective for a period not to exceed ten years, renewable at the option of the County.

Certificate of Appointment of Deputy Registrars

The Board of County Commissioners signed a Certificate of Appointment for Deputy Registrars, designating and appointing drivers' license exam employees, Patricia A. Ehli, Gail R. Polson, and Gloria J. Wheatley, as Deputy Registrars in and for the State of Montana, for a term beginning October 1, 1991, and expiring March 15, 1994, so that they may register individuals to vote throughout the state, pursuant to state law. The Certificate was forwarded to the Secretary of State's Office in Helena.

Other items included:

- 1) the Commissioners approved a request from Susan Reed, County Auditor, to donate used accounting books to the University of Montana Library, as per her memo dated October 1, 1991; and
- 2) the Commissioners initialed the counter offer accepted by Jack and Billie Nelson for Lots 41, 43, 44, 45, 46, 47 & 48 of Hillview Heights #7, as per the items set forth on the Purchase Price Counter Proposal.

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

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OCTOBER 4, 1991

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

Monthly Report

Acting Chairman Janet Stevens 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 September 20, 1991.

Indemnity Bond

Acting Chairman Stevens examined, approved and ordered filed an Indemnity Bond naming Raymond S. Somerset as principal for warrant #93861 or 43861, on the School District #1 Claims Fund, in the amount of \$135.74 now unable to be found.

Wendy Cromwell by Vickie Mazer deputy
Wendy Cromwell, Clerk & Recorder Ann Mary Dussault, Chair

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OCTOBER 7, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Dussault was in Vancouver and Whisler, BC attending a Northwest Policy Center Leadership Council through Tuesday, October 8th.

Audit List

Commissioners Evans and Stevens signed the Audit List, dated October 7, 1991, pages 6-28, with a grand total of \$96,046.06. The Audit List was returned to the Accounting Department.

OCTOBER 7, 1991 (cont.)DAILY ADMINISTRATIVE MEETING

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

Resolution No. 91-086

The Board of County Commissioners signed Resolution No. 91-086, a Resolution creating RSID No. 913 for the purpose of park maintenance of the park area in the Southwest Quarter of Section 12, T. 12 N., R. 20 W, PMM and the 2.25 acre common area originally platted as a utility lot in the Linda Vista 3rd Supplement, Missoula County, Montana, with the estimated cost per platted lot at \$50 per year.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and the Seeley Lake Community Council for the purpose of purchasing services which would advance and promote the interests and welfare of the citizens of the Seeley Lake community, as per the terms set forth, for a total amount not to exceed \$1,000.00, commencing July 1, 1991 and ending June 30, 1992.

Resolution No. 91-087

The Board of County Commissioners signed Resolution No. 91-087, a budget amendment for FY'92 for the Art Museum, including the following expenditures and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditures</u>	<u>Budget</u>
2360-461-460450-206 Supplies	\$ 5,800.00
-327 Consultants	18,500.00
-311 Printing	14,000.00
-945 Capital	700.00

<u>Description of Revenue</u>	<u>Revenue</u>
2360-461-331205 Folk Art Grant	\$39,000.00
NEA	\$33,500.00
MAC	\$ 5,500.00

Budget Transfer

The Board of County Commissioners approved and signed Budget Transfer No. 92-0005, transferring \$14,414 from the accounts listed on the attachment to the transfer, which is on file in the Budget Office, to the accounts listed for the purpose of the County Match for the Folk Art Grant, and adopted the transfer as part of the FY'92 budget.

Resolution No. 91-088

The Board of County Commissioners signed Resolution No. 91-088, a resolution establishing the minimum value of a fixed asset, resolving that the minimum dollar value for purposes of the fixed asset policies is \$500.00, replacing the \$100 value set by Resolution No. 82-135, as this value threshold has created an undo burden within the fixed asset accounting system and is not needed to be in compliance with "Generally Accepted Accounting Practices".

Other items included:

Bid Award

The following bids were received for the crusher cone repair for the Surveyor's Office:

Modern Machinery	\$42,777.66
Clyde/West	\$34,622.25 + 3% = \$35,660.92

The Commissioners awarded the bid to Clyde/West as the best and lowest bid.

OCTOBER 7, 1991 (cont.)

Bid Award

The Commissioners awarded the bid for movable shelving for District Court to Business Machines-Delaney for an amount of \$23,960.00, which includes all parts, freight, and installation.

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

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OCTOBER 8, 1991

The Board of County Commissioners did not meet in regular session. Commissioner Stevens was out of town from October 8th through Friday, October 11th; and Commissioner Evans left for Kalispell late in the afternoon.

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OCTOBER 9, 1991

The Board of County Commissioners did not meet in regular session. Commissioner Dussault was out of the office all day; and Commissioner Evans was in Kalispell where she attended a meeting of the State Highway Commission regarding the Interchange.

WEEKLY PUBLIC MEETING CANCELED

The Weekly Public Meeting scheduled for this date was canceled as all of the Commissioners were out of town.

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OCTOBER 10, 1991

The Board of County Commissioners did not meet in regular session. Commissioner Dussault was in Whitefish October 10th & 11th for a JTPA Planning Session; and Commissioner Evans was out of the office all afternoon.

Monthly Report

Acting Chairman Evans examined, approved and ordered filed the monthly report for Sheriff Doug Chase, showing the items of fees and other collections on account of civil business in Missoula County for month ending September 30, 1991.

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OCTOBER 11, 1991

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

Wendy Cromwell by Vickie M Zeier, Ann Mary Dussault, Chair
Wendy Cromwell, Clerk & Recorder Deputy Ann Mary Dussault, Chair

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OCTOBER 14, 1991

The Courthouse was closed for the Columbus Day Observed holiday.

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OCTOBER 15, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Evans was in Washington, D.C. where she testified at a Congressional Hearing.

OCTOBER 15, 1991 (cont.)DAILY ADMINISTRATIVE MEETING

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

Modification of Agreement

Chair Dussault signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences for the purpose of modifying the terms of Section III of the agreement between them concerning the MIAMI project (DHES No. 320211), as per the items set forth. The Agreement was forwarded to DHES in Helena.

Resolution No. 91-089

The Board of County Commissioners signed Resolution NO. 91-089, a resolution extending the fire season indefinitely; also resolving that no open burning shall be allowed without having obtained an official written permit from the recognized protection agency; and further resolving that the Director of Disaster and Emergency Services and the fire officials of the fire service agencies shall jointly determine when to declare fire season closed.

Resolution No. 91-090

RESOLUTION NO. 91-070
ADOPTING A BUDGET FOR MISSOULA COUNTY
FOR FISCAL YEAR 1991-1992

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 1991-1992, 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 1991-1992, 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 1991-1992, based on the value of a mill of \$118,338 County-wide, and a value of \$64,067 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 1991-1992 as detailed below:

<u>MISSOULA COUNTY-WIDE FUNDS</u>	<u>MILLS</u>	<u>ATTACHMENT</u>
General Fund	41.86	A and B
Bridge Fund	4.00	
Poor Fund	0.45	
Fair Fund	1.48	
Museum Fund	1.75	
Extension Fund	1.30	
Weed Fund	0.68	
Planning Fund	1.60	
District Court Fund	7.21	
Mental Health Fund	0.29	
Developmentally Disabled	0.12	
Aging Fund	0.79	
Park/Recreation Fund	.98	
Risk Management	1.97	
Child Daycare	0.23	
Special Transportation	0.16	
Open Space	0.41	
Library	4.66	
<u>SUB TOTAL</u>	<u>69.94</u>	
<u>MISSOULA COUNTY-WIDE DEBT SERVICE</u>		
RSID Revolving	.50	
G O Issue (Computer)	2.00	
Library Bond	0.23	
<u>SUB-TOTAL</u>	<u>2.73</u>	

OCTOBER 15, 1991 (cont.)

<u>TOTAL COUNTY-WIDE & DEBT SERVICE LEVIES</u>	<u>72.67</u>
Road Fund	13.83
Health Fund	7.30
<u>TOTAL COUNTY-ONLY LEVY</u>	<u>21.13</u>

DATED THIS 30TH DAY OF JULY, 1991

Resolution No. 91-091

The Board of County Commissioners signed Resolution No. 91-091, a resolution accepting real property known as the MARSDA Building, located on the Missoula County Fairgrounds, in the NW Quarter of the NW Quarter, Section 33, T. 13 N., R. 19 W., Missoula County, from MARSDA Inc. in exchange for payment of \$170,000.00, with the building to be used for public purposes.

Resolution No. 91-092

The Board of County Commissioners signed Resolution No. 91-092, a Warranty Deed accepting real property for public purposes from Dennis R. Washington located in Missoula County, in the SE 1/4 of Section 32 and the SW 1/4 of Section 33, T. 14 N., R. 10 W., Missoula County, also described as the Grant Creek property adjacent to Gleneagle.

Plat and Subdivision Improvements Agreement and Guarantee

The Board of County Commissioners signed the plat for Bitterroot Meadows Phase II, a residential urban subdivision of Missoula County, located within Tract 1 & 2, COS No. 1674 in Section 2, T.11 N., R.20 W., with the owner of record being Larry R. Kolb, Inc., and cash in lieu of park land in the amount of \$3,188.89 was received by the County Treasurer. The Commissioners also signed a Subdivision Improvements Agreement and Guarantee for the plat regarding the improvements which remain to be completed, namely the completion of the water main extension and construction of roads and sidewalks and curbs. The Guarantor acknowledges that the remaining improvements must be completed within two years of filing the final plat, and has an Irrevocable Letter of Credit from First Security Bank in the amount of \$81,095.00 as security.

Escrow Agreement and Request for Reconveyance

The Board of County Commissioners signed an Escrow Agreement and Request for Full Reconveyance as requested by First Interstate Bank for the Escrow Set-up for Frederick D. Chadwick of Toluca Lake, California. The documents were returned to Jim Dopp, Operations Officer, for further handling.

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

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OCTOBER 16, 1991

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. 91-093

The Board of County Commissioners signed Resolution No. 91-093, an emergency proclamation resolution, resolving that because of the extreme fire danger in Missoula County, an emergency condition exists, and the County will pursue all avenues of enforcing the open burning restrictions, including criminal charges against persons violating this proclamation and civil action to recover all damages.

OCTOBER 16, 1991 (cont.)Quitclaim Deed

The Board of County Commissioners signed a Quitclaim Deed from Missoula County to Glacier General Assurance Co., for the premises described as SUID #5807022, Westview #3-- Lot 19, Block 6, as this parcel has been redeemed. The Deed was returned to the Clerk and Recorder's Office.

Construction Form 1

The Board of County Commissioners signed Construction Form 1 for the Mullan Road East Section Project (No. RS 263-1(6)1) indicating final acceptance of the project by the County. The form was returned to the Missoula Office of State Highway Department.

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

WEEKLY PUBLIC MEETING

Chair Ann Mary Dussault opened the Public Meeting at 1:30 p.m. Also present were Commissioners Janet Stevens and Barbara Evans.

PRESENTATION OF GRANT CHECK TO TOTLINE (A SERVICE OF THE MENTAL HEALTH CENTER)

Janet Stevens explained that Totline has been a service of the Western Montana Regional Community Mental Health Center for three years in Missoula County. Totline is a free telephone service in which trained volunteers provide support and education regarding early childhood development, parenting and problem solving skills. The program focuses specifically on young children, ages birth to five years. Totline was started in Missoula three years ago by Health Center therapist Linda Fagen. Karen Schwarz Totlines's Business Manager, worked hard in helping to obtain a grant from the USA for Health Care and the second from the Montana Children's Trust Fund as well as soliciting donations from the community of Missoula. These two women's efforts will allow Totline to expand its services to other communities in Montana; specifically in Great Falls, Helena, Bozeman, Butte and Kalispell. Under the terms of the grants, parents will be able to call toll-free to Missoula through the use of an 800 number to receive prompt support, education and guidance in dealing with the everyday challenges of caring for young children.

George Withey, USA for Healthcare presented a check in the amount of \$5,000.00 to Totline.

HEARING: (COS REVIEW) USE OF OCCASIONAL SALE (VANNOY)

Marnie McClain, Deputy County Attorney, explained that Rodney Vannoy has submitted an affidavit for an occasional sale exemption. According to Missoula County Records, Mr. Vannoy has previously subdivided property in the same general area (Section 28 Tract 14N Range 15N). Specifically, he used the 20 acre exemption in 1978 and in 1990. Also, the Vannoy Ranch Co. used an occasional sale exemption in 1978.

Ann Mary Dussault opened the hearing to public comment.

The process was explained to Mr. Vannoy and the hearing proceeded.

Ann Mary Dussault closed the hearing as there was no further public comment.

Barbara Evans moved and Janet Stevens seconded the motion to approve the Occasional sale exemption requested by Mr. Vannoy on the above listed property in that the Board finds no attempt to evade the Subdivision act. Motion carried on a vote of 3-0.

OCTOBER 16, 1991 (cont.)BID AWARD: LOCAL AREA NETWORKING SYSTEM (DATA PROCESSING)

Ann Mary Dussault explained from information received from Dave Vugteveen, Data Processing that two parties, Emery Computer and 4-G Computers, have submitted proposals related to development of a Local Area Network (LAN) system. Baseline comparison of core items and bids received were:

Emery	\$69,620
4-G Computers	\$83,797

Information Services recommends bid award to Emery Computer as the best and most responsive bidder. Final bid amount is to be based on actual quantities and items selected. Fiscal Impact would be \$69,620.

Jim Dolezal, Information Services, said the budget was \$83,000. This system will continue the automation of Youth Court, County Attorneys Office, District Court and Justice Court.

Janet Stevens moved and Barbara Evans seconded the motion to award the Local Area Network System contract to Emery Computer as within the fiscal year budgeted amount of \$69,620 as the lowest and best bidder. Motion carried on a vote of 3-0.

BID AWARD: 4 GPS SYSTEM (SURVEYOR'S)

Ann Mary Dussault explained from information received from Horace Brown, Surveyor, that this was a request for a bid award of a 4 GPS System to the Surveyor's Department.

The bids were opened October 15, 1991 at 10:00 a.m. They are as follows:

GEO Research, Inc.	\$31,908.00	=	+3% out of state \$32,865.24
Navigation Electronics	31,750.00	=	32,702.50
Navigation Electronics	31,750.00	=	32,702.50
Electronic Data Solutions	32,407.00	=	33,379.21

The Surveyors office recommends that the bid award go to Navigation Electronics in Cheyenne, Wyoming for \$31,750. There is \$40,000 budgeted for this item.

Horace Brown explained that this system allows the Surveyors to map County roads from a vehicle. An antennae sits on the top of the vehicle and as the vehicle drives down the road it maps the road. The information is recorded into a laptop computer then put into a mapping system at the end of the day. This will be necessary for roads that don't appear on maps to-date, and also the County may be required to map all of the Forest Service roads. If Legislation goes through, Congress will require all Counties to file easements on all Federal lands. If this passes, the mapping will have to be finished by 1994.

Janet Stevens moved and Barbara Evans seconded the motion to award the bid for a GPS System to Navigation Electronics in Wyoming in the amount of \$31,750.00 as the lowest and most responsive bidder. Motion carried on a vote of 3-0.

BID AWARD: (3) 4X4 HARD-TOP VEHICLES AND (1) 4X4 PICKUP (SHERIFF)

Ann Mary Dussault explained from information received from Don Mormon, Sheriff's Department, on September 27, 1991 bids for three hard-top 4x4's and one 4x4 pickup were solicited. Bids were accepted until 10:00 a.m. October 15, 1991.

OCTOBER 16, 1991 (cont.)

One bid was submitted from Grizzly Auto Center for the three hard-top 4x4's in the amount of \$47,026, with trade-ins. An alternate bid was submitted for \$46,372, with trade-ins. This alternate bid includes more options.

Two bids were submitted for the 4x4 pickup--one from Bitterroot Motors in the amount of \$16,659, with five exceptions. The second bid was from Grizzly Auto Center in the amount of \$15,682, with no exceptions.

The Sheriff's Office recommends that the Board accept the alternate bid, with trade-ins, by Grizzly Auto Center for \$46,372 for the three hard-top 4x4 vehicles. Accept the bid from Grizzly Auto Center for the 4x4 pickup in the amount of \$15,682.

The total fiscal impact is \$62,054 with a budgeted amount of \$76,000.

John DeVore, Administrative Officer, explained that the three hard-top 4x4's are for the Sheriff's Department replacement and the pickup is for General Services.

Barbara Evans moved and Janet Stevens seconded the motion to award the bid for the three 4x4 hard-top vehicles to Grizzly Auto Center in the amount of \$46,372 and accept the bid for the 4x4 pickup from Grizzly Auto in the amount of \$15,682 as has been recommended by the Sheriff's Department and the Staff. Motion carried on a vote of 3-0.

CONSIDERATION OF: BAUMAN ADDITION, AMENDED PLAT OF LOT 6, BLOCK 2 - ALLOMONT ORCHARDS (SUMMARY PLAT)

Barbara Martens, OCD, explained that the Bauman Addition, an Amended Plat of Lot 6, Block 2, Allomont Orchards is a proposed two lot subdivision on 8.03 acres. Lot 6A (4.00 acres) is intended to provide a homesite for the developer's son, while Lot 6B (4.03 acres) would be retained for the developer's existing homesite. The property is located in Lolo, just north of Farm Lane and approximately 200 feet to the west of the Bitterroot River.

Office of Community Development recommends that the summary plat for Bauman Addition, An Amended Plat of Lot 6, block 2, Allomont Orchards be approved, subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. Approach permits shall be obtained for the driveways from the County Surveyor.
3. The developer shall dedicate, within the boundaries of Lots 6A and 6B, a maximum of 30' additional easement width for both the public and private road easements. The required width shall be determined by the County Surveyor.
4. The developer shall include a statement on the face of the subdivision plat and in each instrument of conveyance, which states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of Farm Lane and may be used in lieu of their signatures on an RSID petition.

Condition #3 is meant to bring the roads up to County standards as much as possible. The reason for Condition #4 is to facilitate the eventual upgrading of Farm Lane.

Ed Fleming, Territorial Engineering, said his clients, the Bauman's are willing to give up the 30' for the easement on the South side of the property. However, on the east side there is no roadway. If they have to give up another 30' on the east side it would be getting close to their house. There is not an easement on the west end, but there is a road.

Barb Martens said there is a 30' easement on the adjacent property on the west side, but not on the Bauman property.

Ed Fleming said it would be best for his client to give 30' on the west side of the property rather than the east side. That way there would be the 60' on the west side where there is already an existing road.

Barb Martens said the intent of the recommendation was to look at situation and see if it was necessary to have easements on three sides of the property. It is subject to the approval of the County Surveyor's office. There is no road on the east side of the property, so what is important to OCD is the west side and the south side of the property. The intent was to look at the possibility of an easement on the east side as well should there be a need for a public road on that side in the future.

Barbara Evans asked the County Surveyor if there will be a need for roads on 3 sides of this property sometime in the future?

Horace Brown said that the County had already vacated roads to the north because they weren't needed. To have that many easements is not necessary. If there is a road at the south end of both lots that would be sufficient.

Barb Martens said that because the adjacent property on the west boundary has an existing easement of 30', it would make sense for the Bauman's to give a 30' easement as well in the instance that a subdivision go in to the north of the property.

Barbara Evans asked Barb Martens if her office would accept the easements on the east and south sides.

Barb Martens said if the Surveyors office feels that it isn't necessary for easements to be on the 3 sides of the property for future development then it would be acceptable for her office.

Discussion ensued as to the need for the west side of the property to have a 30' easement. The roads to the north have been vacated. If a subdivision goes in to the north, there are other roads that would access this subdivision. It was decided that a 30' easement would only be required for the south boundary of the property.

Barbara Evans moved and Janet Stevens seconded the motion to grant approval to the Bauman Addition, An Amended Plat of Lot 6, Block 2, Allomont Orchards subdivision as subject to the four conditions set down by the Office of Community Development with the change to Condition #3 to read "the developer shall dedicate within the boundaries of Lot 6A and 6B a maximum of 30' additional easement width for the public easements on the south boundary of the land. The required width shall be determined by the County Surveyor. Motion passed on a vote of 3-0.

CONTINUATION OF HEARING & FINAL DECISION ON: PROPOSED ORDINANCE AMENDING THE AIRPORT AREA INDUSTRIAL TAX INCREMENT DISTRICT

Ann Mary Dussault said that Board of County Commissioners prematurely made a motion at the Public Meeting of September 25, 1991. A final decision on this matter will be made at today's meeting.

John DeVore stated that the Board had not received opposition to this proposal.

Ann Mary Dussault opened the hearing for public discussion. There being none, the hearing was closed.

Barbara Evans moved and Janet Stevens seconded the motion to amend the Tax Increment Financing District to delete the piece of property that is known as Dennis Washington property. Motion carried on a vote of 2-1, Chair voting against the motion.

OCTOBER 16, 1991 (cont.)Resolution No. 91-094

The Board of County Commissioners signed Resolution No. 91-094, a resolution amending the boundaries of the Airport Area Industrial Tax Increment District created through Resolution No. 91-929.

There being no further business to come before the Board, the meeting was adjourned at 2:15 p.m.

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OCTOBER 17, 1991

The Board of County Commissioners met in regular session; all three members were present. In the morning, Commissioner Dussault gave the Welcome at the 1991 Joint Conference sponsored by the Missoula Volunteer Council & the Northwest Alliance of Information and Referral Systems held at the Village Red Lion.

Audit List

Commissioners Stevens and Dussault signed the Audit List, dated October 16, 1991, pages 4-37, with a grand total of \$202,592.50. The Audit List was returned to the Accounting Office.

DAILY ADMINISTRATIVE MEETING

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

Proclamation

The Board of county Commissioners signed a Proclamation, proclaiming October 18th and 19th as "Missoula County Soccer Days" to celebrate the first year of this new interscholastic sport and the role Missoula County has played in bringing the international game of soccer to Montana.

Approval Form

The Board of County Commissioners reviewed and signed Approval of the Volunteer Health Professional Agreement for use in Missoula City-County Health Department programs. The form was returned to the Health Department.

Extension Letter

The Board of County Commissioners signed a letter to Gilbert Larson of Druyvestein, Johnson and Anderson approving a 180-day filing extension for the Linda Vista Sixth Supplement, making the new filing deadline April 17, 1992.

Other items included:

- 1) the Commissioners approved a request from Sheriff Doug Chase to transfer \$2,250 from the money set aside for range improvements to purchase four King radios from Stein Electronics in Seeley Lake to equip the Under-sheriff and three captains, which will improve the effectiveness of directing operations at major scenes; and
- 2) Commissioners Evans and Stevens signed concurrence, with Commissioner Dussault abstaining, with the recommendation of the Larchmont Golf Course Board to retain the services of Jamie Hoffman as the architect for the Golf Course Operations Center--these services will be retained on a "phasing" mode, with the Commissioners stipulating that Administrative Officer, John DeVore, be involved in all subsequent phases of this project.

OCTOBER 17, 1991 (cont.)

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

OCTOBER 18, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was in Superior attending a Mental Health Board meeting.

Wendy Cromwell by Vicki Mzier deputy
Wendy Cromwell, Clerk & Recorder *Ann Mary Dussault*
Ann Mary Dussault, Chair

OCTOBER 21, 1991

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

DAILY ADMINISTRATIVE MEETING

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

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and the University of Montana for the purpose of the University obtaining the expert services required to provide law enforcement, crowd control, and general security at University events or events conducted in University facilities, as per the terms set forth, for a payment of \$11.60/hour for services rendered for concerts and \$9.60/hour for all other events, commencing September 1, 1991 and ending June 30, 1992.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and SCA, Inc. - Barony of Sentinels' Keep, an independent contractor, for the purpose of painting the gallery at the Historical Museum and cleanup, as per the terms set forth, for whatever time is required to complete the project by September 30, 1991, but no more than five days, for a total amount not to exceed \$100.00.

Other items included:

The Commissioners approved a request from the Fair Board to spend \$15,000 from their capital line item for improvements and renovation of the rodeo grounds to provide a safer event area and allow other events to be conducted without interfering with the race track.

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

OCTOBER 22, 1991

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:

OCTOBER 22, 1991 (cont.)Amendment to Agreement

The Board of County Commissioners signed an Amendment to the Agreement between the Missoula City-County Health Department and the Frenchtown School District, amending the "consideration" section and the "effective dates" section on page 2 of the Agreement as per the items set forth. 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 Commissioners Office.

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OCTOBER 23, 1991

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 because of illness.

Audit List

Commissioners Evans and Stevens signed the Audit List, dated October 23, 1991, pages 5-32, with a grand total of \$83,412.87. The Audit List was returned to the Accounting Department.

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Sharon Lamar as principal for warrant #7827, dated October 10, 1991, on the Missoula Area Special Education Cooperative Fund in the amount of \$850.70 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit, whereby Missoula County agrees to permit Barbara Hanson of East Missoula to encroach upon a portion of Minnesota Avenue right-of-way abutting Lots 3 and 4, Block 28, East Missoula Addition, with the encroachment limited to the chain link fence as shown on the exhibit attached to the Permit, effective for a period not to exceed ten years, renewable at the option of the County.

Agreement to Sell and Purchase and Addendum to Purchase Agreement

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Vivian M. and Robert L. Schneider, Jr. for Lot 12, Block 5, Donovan Creek Acres in Clinton, Missoula County, Montana, as per the terms and contingencies set forth, for a total purchase price of \$20,400.00. An Addendum to the Purchase Agreement was also signed by the Commissioners giving the Purchasers permission, at their expense, to activate the power supply to the property to test the well and sewage disposal systems in order to meet the contingencies in the Purchase Agreement. The Agreement and Addendum were returned to Jim Dopp, Operations Officer, for further handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Seeley-Ovando Swan Health Center, an independent contractor, for the purpose of performing public health nursing services, as per the terms set forth, for a total payment not to exceed \$1,000.00. The Contract was returned to the Health Department for further signatures and handling.

OCTOBER 23, 1991 (cont.)Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Fred W. and P. Joyce Topel for Lot 44 of Grantland #13, as per the terms set forth, for a total purchase price of \$27,000.00, contingent upon the purchaser's design being accepted by the architectural control committee no later than November 21, 1991. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and Arnold C. James and Laurie Ann Johnson for Lot 5, Michelle Addition (Norman's Lane - bare land), as per the terms set forth, for a total purchase price of \$12,600.00, contingent upon the sale of the purchasers' current residence at 115 Vail Court by February 15, 1992. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and a Warranty Deed from Missoula County to Marty Walters, for the premises described as Lot 19 of Hillview Heights, a platted subdivision in the City of Missoula, Missoula County, subject to the items listed on the Deed. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and a Warranty Deed from Missoula County to Albert W. and Laurie D. French, for the premises described as Lot 34 of Hillview Heights #7, a platted subdivision in the City of Missoula, Missoula County, subject to the items listed on the Deed. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Addendum to Listing Agreement

Chair Dussault signed an Addendum to the Listing Agreement for the sale of Missoula County owned lots between Missoula County and Coldwell Banker/Steinbrenner Real Estate and Properties 2000, the listing brokers, adding the following lots to the Listing Agreement dated January 30, 1991:

Lots 2, 3 & 4 - Michelle Addition
List Price: \$13,200 per lot

Hillview Heights #6, Blk. 2 and Blk. 10
Commonly known as Settlement Court and Hamlet Court
\$64,200 for Blk 10 (assessed market value)
\$89,880 for Blk 2 (assessed market value)

The Addendum was returned to Jim Dopp, Operations Officer, for further handling.

Amendment to Agreement

The Board of County Commissioners signed an Amendment to the Agreement between Missoula Indian Alcohol and Drug Services and Missoula County, amending the following Sections as shown in the Amendment: Section 2. "Compensation" 'a': and Section 3. "Method of Payment" 'a': with the remaining sections as is in the Agreement. The Amendment was returned to the Health Department for further signatures and handling.

OCTOBER 23, 1991 (cont.)Amendment to Agreement

The Board of County Commissioners signed an Amendment to the Agreement between Recovery Foundation, Inc. and Missoula County, amending the following Sections as shown in the Amendment: Section 1. "Scope of Services" 'c', 'f', 'i' and 'j'; Section 2. "Compensation" 'a'; Section 3. "Method of Payment" 'a'; Section 4. "Terms"; and Section 5. "Termination"; with the remaining sections as is in the Agreement. The Amendment was returned to the Health Department for further signatures and handling.

Other items included:

- 1) the Commissioners approved John DeVore, Administrative Officer, attending the upcoming GIS Conference in Bozeman; and
- 2) the Commissioners agreed that a separate notice will be inserted with the 1991 tax bills as a correction to the Airport levy being listed.

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

WEEKLY PUBLIC MEETING

Chair Ann Mary Dussault opened the Public Meeting at 7:30 p.m. Also present were Commissioners Janet Stevens and Barbara Evans.

HEARING: PUD ZONING REQUEST & SUBDIVISION PROPOSAL (JOHN DIDDEL - O'BRIEN CREEK MEADOW)

Ann Mary Dussault explained that the hearing would consist of a presentation from the Office of Community Development, followed by remarks from the proposers of the development, then public comment limited to 5 minutes to give everyone a chance to speak. After all public comment, the developers will be given a chance to give closing comments, then questions from the Board of County Commissioners will be directed to the Staff, developers, or those who testify.

Barb Martens, Office of Community Development explained John Diddel has submitted a rezoning request, preliminary plat, and master plan for a Planned Unit Development on 79.8 acres located along O'Brien Creek, Blue Mountain, and River Pines Roads. The PUD would consist of a single family subdivision of 76 lots, to be developed in three phases over a total period of six years. The PUD rezoning proposal contains a request for 26 density bonuses, since the present zoning of the subject property allows only 50 homesites. As part of this PUD, the applicant proposes to construct a community water system; individual septic systems would be installed; the approach to the subdivision off O'Brien Creek Road would be paved, as well as the interior roadways of the development; a bridge spanning O'Brien Creek would be constructed; and one lot would be reserved for a group home site. 22.3 acres of common area would be provided, along with 10.4 acres of additional public open space on steep hillsides and 5.5 acres of private lotted area assigned a "no improvement" easement.

Contained within the developer's packet is a reference to a protective covenant that is being applied to a nearby 42-acre riverfront parcel. The covenant is apparently an agreement between William Maclay and John Diddel, whereby development of the parcel will be limited to seven dwelling units. At the October 8, 1991 Planning Board public hearing, staff learned that the agreement apparently contains an agricultural exemption requiring the approval of the County Commissioners. Neither OCD nor the County Attorney's Office had seen the document; nor had they received any information pertaining to the development potential/suitability of this second site. Staff therefore suggests there can be no direct connection made between the protective covenant reference and this PUD proposal.

Slides were then shown regarding the subject property.

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Doris Fischer, OCD, stated that the PUD proposal pertains to a 79.8-acre portion of what is commonly referred to as the Maclay Ranch. Until 1978, the subject site was zoned to allow a total of 13 homesites. In 1978, in response to a rezoning request by William Maclay, the Board of County Commissioners "up-zoned" the easternmost portion of the property, to effectively allow a total of 50 homesites. This action was contrary to the Planning Staff's recommendation. In July, 1991, John Diddel initially proposed an 83-lot subdivision and PUD on the 79.8-acre parcel. This plan was discussed in a series of meetings with OCD staff, other agency personnel, and neighborhood representatives. A number of design, density, service, and environmental concerns were raised. One major question was debated at some length: whether or not 83 homesites could be accommodated at this location, in a way that would not detract from the natural richness and diversity of the site, prove incompatible with the existing rural residential character of the neighborhood, or unduly overburden the community services and facilities needed to support such a development. OCD Staff attempted to work with the applicant and suggested possible ways of addressing some of the key concerns. In reviewing John Diddel's revised PUD proposal for a 76-lot subdivision (the subject of this request for Commissioner action), OCD Staff continues to have a number of original design, density, service, and environmental concerns. These are outlined in some detail in the Staff Report. Such concerns make the OCD staff unable to find this PUD proposal consistent with the contents of planning for Missoula even though they recognize that the proposed subdivision does offer positive things such as a community water system.

Ann Mary Dussault explained that the Board has all of the testimony and letters presented to the Office of Community Development's last meeting and also the minutes of the Planning Board meeting and all of this is included in tonight's record as well.

Doris Fischer stated that OCD has recently learned of the applicant's offer to contribute \$35,000 towards the half-mile unpaved section of Blue Mountain Road closest to the project location. A correction was made on a piece of mis-information made at the Planning Board meeting of October 8, 1991, as contained in the minutes. During the course of public testimony on October 8th, it was stated that the Target Range School District has not commented on the proposed subdivision. That is not correct. The school district did attend a September 30th meeting of County agency staff with the developer present. The information provided by the school at that time was included in the staff report and does constitute part of the official record.

The Planning Board held a public hearing on October 8, 1991, and has recommended the following:

1. That action on this PUD rezoning and subdivision proposal be postponed, to enable the applicant to make further modifications to bring the project more closely in line with the stated intent of Missoula County's PUD District, at a maximum zoning density of approximately 50 homesites. If the applicant expresses his unwillingness to attempt such project modifications, the PUD rezoning and subdivision proposal should be denied.
2. That a neighborhood planning process for the O'Brien Creek/Big Flat/Target Range area be initiated by the County within the next calendar year.

This recommendation is identical to the OCD Staff recommendation, except that OCD did not recommend including the Target Range area in the proposed neighborhood planning project. One final note: Since the Planning Board meeting, OCD has received no further information from the applicant. OCD's recommendation has not changed.

Phillip Maechling, OCD, presented some alternative concepts in site designs and development possibilities for this piece of property. Clustering of units, using land forms, varying terracing of the property which would expand and retain the open space.

Ann Mary Dussault opened the hearing to public comment starting with the developers of the project.

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Andy Fisher, Eli & Associates, representing the developer, John Diddel, urged the Board to approve the project. A revised list of conditions were submitted and read as follows:

THAT THE O'BRIEN CREEK MEADOW PUD REZONING BE APPROVED AND THAT PRELIMINARY APPROVAL OF THE O'BRIEN CREEK MEADOW SUBDIVISION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. That the sanitary restrictions be lifted by the Montana State Department of Health and Environmental Sciences.
2. That final road, grading, drainage and erosion control plans be approved by the Missoula County Surveyor's Office.
3. That the developer consult with the Missoula County Health Department and the Missoula County Surveyor's Office of the purpose of developing a "grassy swale storm drainage" demonstration project.
4. That all pertinent Missoula County Subdivision regulations concerning covenants, and Homeowners Association formation and incorporation be complied with to the satisfaction of the Missoula County Attorneys Office.
5. That management plans shall be developed for the common areas and private open space identified on the master plan, in consultation with the Office of Community Development; Missoula County Rural Planning Office; U.S. Forest Service; and the Montana State Department of Fish, Wildlife and Parks. Said management plans shall be included as an appendix to the covenants to be filed on O'BRIEN CREEK MEADOW.
6. That the protective covenant restricting development on Exhibit B to seven dwelling units, shall be filed prior to the filing of the final plat of O'BRIEN CREEK MEADOW.
7. That the interior roads of O'BRIEN CREEK MEADOW, namely Triple Creek Drive an double Tree Lane, shall be paved prior to the issuance of the 9th building permit for residential construction in O'BRIEN CREEK MEADOW, said paving to be the responsibility of the developer Mr. John Diddel, or if necessary through the formation of an RSID for the purpose of paving Double Tree Lane and that portion of Triple Creek Drive located within this subdivision. Pursuant to such an RSID, the following statement shall be placed on the face of the plat: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the paving of Double Tree Lane and that portion of Triple Creek Drive located within this subdivision, and may be sued in lieu of their signatures on an RSID petition."
8. That the following statement shall appear on the face of the plat: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owner to participation in a future RSID for the purpose of improving (including an asphalt pavement surface) O'Brien Creek Road, said participation not to exceed 1/25th of 23% of the total cost of the dust abatement benefit of said RSID, for each lot in this subdivision, and may be used in lieu of their signatures on an RSID petition."
9. That prior to the filing of the final plat of O'BRIEN CREEK MEADOW, a guarantee shall be arranged to the satisfaction of Missoula County to assure the following course of action: Upon the filing of O'BRIEN CREEK MEADOW PHASE 3 as designated on the master plan, or 5 years from the date of this agreement, or at such time after said 5 years or the filing of O'BRIEN CREEK MEADOW PHASE 3 as Missoula County desires, John Diddel shall provide to Missoula County, funds not to exceed \$35,000 for the purpose of purchasing up to 770 tons of asphalt pavement or suitable equivalent materials as determined by Missoula County Surveyor's Office, said asphalt to be used for improving that section of Blue Mountain Road lying in the North 1/2 of Section 34, T.13 N., R.20 W., P.M.M.

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He again urged the approval of the project, stating the benefits the project would bring to the area which are as follows: 40% open space in the project, the preservation of the riparian zone, minimum impact on the aesthetics of the neighborhood by using buffers, density reduction from 92 to 83 homes, a community water system, no negative impact on wildlife, donation and the construction of a group home, and the donation of \$35,000 in the upgrading of Blue Mountain Road. The testimony at the public meeting of the Planning Board show that the residents of the area consider the condition of O'Brien Creek and Blue Mountain Roads to be unacceptable irrespective of this proposal.

The developers are asking for the reallocation of density to allow for the more efficient planning and development of these properties.

Mr. Abramson, Real Estate Broker, stated that there is a demand for real estate development, and is a proponent of this development.

Howard Newman, Consulting Hydrologist, stated that he was retained to look at the area to determine the nitrate impacts from the proposed subdivision on the downgrading of wells. He said he performed tests, pumped an irrigation well and monitored adjacent wells, also test-pumped neighboring wells and monitored wells up on the bench. The results of the testing indicate that the ground water is prolific for dilution of nitrates. A rough calculation based on some preliminary data indicates from the generation of approximately 73-75 sites, that the nitrates increases in downgrading wells approximately a .10 of a milligram per liter. It might not be enough to even pick up depending on where the wells are. Newman stated that he didn't think that this would be a problem. This would be the least of the problems that the subdivision would have, given the septic systems are installed properly and a community well is used, and monitoring of ground water is performed. Newman will make a written report to Rick Duncan, Subdivision Supervisor for the Department of Health and Environmental Sciences for the State of Montana in Helena.

Ann Mary Dussault requested that a copy of this report be sent to the Board.

Calvin Christian, Attorney, representing the Maclays, the owners of the property, stated that the McClays support the development of this land by John Diddel.

Wally Congdon, speaking on behalf of John Diddel, explained that the McClays indicated that they were willing to limit the northern acreage of 40(+/-) acres to 7 single family units. This acreage is actually over 50 acres because the extra 10 or so acres was deeded to the Maclay family by the McCullough brothers.

The \$35,000 to be donated to the County by John Diddel for the paving of Blue Mountain Road, was arrived at as economic at the 76-unit number in solution to the biggest concern residents addressed at the Planning Board meeting. Congdon talked with Marnie McClain, Deputy County Attorney, regarding the guaranteed payment of those funds.

The zoning allows 92 units total to be built on the two sites combined. The developer is proposing 76 PUD on the top property and 7 units on the bottom. This is actually 9 units less than what the existing zoning on the site allows; it is over 100 units less than what the County Comprehensive Plan as revised in 1990 recommends.

Ann Mary Dussault opened the hearing to testimony from the public.

Liz Stevenson, member of Blue Mountain/O'Brien Creek Homeowners Association, presented a petition signed by 500 homeowners in the area of Blue Mountain, Target Range, O'Brien Creek, Big Flat, Horseback Ridge, Lion Creek, Cedar Ridge and Hidden Heights areas, urging the Commissioners to reject the proposed subdivision upon the basis of the rezoning request because of the high site density of the subdivision. Development under present zoning would have significant impacts on the existing roads, bridges, Target Range elementary school and wildlife habitat.

Gary Botchek, resident of Target Range, expressed concern over the rezoning of the property in question. He mentioned other rezoning instances that were detrimental to the areas

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affected. Target Range School would be adversely affected by the increased number of students from the proposed subdivision. The taxes generated from this subdivision would not be enough to cover the increase in student enrollment.

Bruce Fowler, Blue Mountain Homeowners Association, expressed concerns over the existing road conditions. He stated that these problems along with better planning for this area, need to be addressed before development starts. A long-term plan needs to be in place for this area as well as funding. Road maintenance, adverse conditions of the roads at different times of the year, inadequate signage, speed of traffic, and width of the road were all problems to be addressed. He also voiced concern over the construction traffic for 5 years. Air monitors need to be placed in this area to monitor the particulate counts caused by the dust problem. Existing problems need to be taken care of and planned for now.

Dean Bohnsack owner of land adjacent to the proposed subdivision, voiced concern over 1991 increases in the traffic count on Blue Mountain Road, Maclay Bridge, Big Flat Road, Kona Ranch Road, and O'Brien Creek Road. The Blue Mountain recreational area is increasing the road and foot traffic on this road. Accidents will keep increasing due to this traffic. A letter from Bill Reed, Fire Department, said that McClay Bridge would no longer be used for fire response units. An extra 6 miles would have to be travelled to get to the area. A new bridge would have to be constructed to solve this problem. Protection for the area is not adequate. He mentioned the Oakland, California wildfire and how the factors are the same in this area. The shortage of personnel in the Sheriff's Department is also a problem. He also mentioned concerns over groundwater with increased sewage from the subdivision. Weed control was not guaranteed in the proposal. These concerns need to be dealt with before this subdivision can be approved.

Harold Ort, member of the Board of Directors of Hidden Heights Homeowners Association, stated that the homeowners association is not against development in the area. However, they are concerned about the proposed 76 drainfields. The proposed O'Brien Creek development is downstream from the Hidden Heights community well. John Moore, a geology professor at the University of Montana, who lives on O'Brien Creek Road, wrote a letter to the Office of Community Development, which is contained in the record, regarding septic effluent contamination. The letter stated concerns over the contamination of ground water. It also stated that this subdivision is comparable to other areas in the Missoula Valley experiencing contamination from septic systems; namely Linda Vista, Orchard Homes, Target Range and Hays Creek. He said it was extremely probable that development of this bench with the proposed number of houses and associated drainfields will result in contamination of adjacent water supply with nitrates and possibly bacteria and viruses. It would affect the quality of water. Ort urged the approval of the OCD recommendation.

Jim Notaro, Superintendent of Schools in Target Range, stated that the school could not take a pro or con position to the issue. However, there were concerns over the following:

1. Rate of growth versus the ability to house these students.
2. Transportation costs to the school.
3. Total dollars gained in increased tax revenue versus the total dollars needed to educate all the added students.
4. Ability of the District to bond, build or remodel.
5. Planning.

Ted Stetler, Chairman of Target Range School Board, stated that he wished to emphasize the impact that an accelerated type of development will have on the school and its ability to maintain proper education for students. He stated that the school is at the maximum capacity and cannot bond anymore.

Liz Stevenson, expressed concerns over the proximity of the homesites to riparian zones. Interaction of domestic animals with wildlife was another concern. Viewing of the night sky would also be inhibited by the lights of the subdivision as well as the probable 76 woodstoves and the problems that come with that.

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Dick Huddle, Wildlife Biology faculty, Ornithology teacher at the University of Montana, stated concerns over the bird habitat in the riparian zone. He felt this area is a very sensitive area to put a California-type development.

Roger Munroe, resident of Big Flat Road, thought that if McClay Bridge would be done away with, it would make no sense to increase the density of the population.

Holly Meisner, O'Brien Creek Valley resident, expressed concerns over the impact of the density to the O'Brien Creek valley. She also had concerns over the negative interaction of wildlife with the residents of the subdivision. She encouraged a plan for the area that is sensitive to the unique nature of this valley.

Charlie Stevenson, representing the Blue Mountain Homeowners Association, stated that this area supports much wildlife. The reason people move out to area is because of the rural flavor of life.

Jan Jones, President of Mountain Creeks Homeowners Association, stated concerns over the traffic problems of the area. These issues need to be addressed before any development is even proposed at these areas.

Fred Mazanko, resident of O'Brien Creek Road, expressed opposition to the proposed subdivision.

Jerry Marble, resident of Tipperary Way, a proponent of development, believes Missoula needs more development. The available residences on the housing market today is down from the available houses of 1987 by over 340 homes.

Howard Newman restated how much water there is in the area. Nitrates in the area will be diluted. The Bitterroot River runs through the area. There are extremely low nitrate concentrations in the area at this time. A 'horrendous' amount of water is coming through this area, and 50-500 times more running through the O'Brien Creek area for dilution than other areas in Missoula. The only solution to take care of on-site septic waste, short of dilution, is a city sewer system, or an on-site "ad-sep" system. The geology and hydrology of Linda Vista, Orchard Homes, Target Range, Hayes Creek, the Rattlesnake and Grant Creek, are all different from the O'Brien Creek area. In this particular area, there is horrendous quantities of water. The least of the problems of this subdivision will be the groundwater and the on-site sewer.

Andy Fischer stated that in view of the testimony given about the roads, the school, etc., he would like to remind the Commissioners that the developer is dependant upon County approval after consideration of all of the a-fore-mentioned issues. The developer has to work with those decisions.

Wally Congdon explained that the present zoning for the property in question is CRR1, which allows one unit per one acre. The health department also allows this same density. On the 40 acre site and the 70-acre site, with the existing zoning, there can be 92 to 95 units. The developer is asking for 83 units on the property. On this particular site, the developer is increasing the density from 52-55 units to 76 units on the one portion of the property. The proposal decreases the density on the one portion of the property from 47-49 units to 7 units. The residents have stated they have a problem, not with the proposal, but with the problems that are occurring now. He said the proposal actually lessens the problems that the residents have now:

1. Preserves natural aesthetics the area because the development cannot be seen from the roads below.
2. The riparian area exists on the site where the developers want to limit the units to 7 units.
3. The community water system for 76 homes means there would only be one hole punched into the ground. If 55 homes are approved, that means there would be 55 holes punched for

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wells. 76 homes are needed to pay for the community water system. This system provides a source of water for the fire department to use.

4. Donation of \$35,000 to pave Blue Mountain Road.

5. Preserves open space.

No one else came forward to speak and the hearing was closed to public comment. Ann Mary Dussault asked for questions or comments from the County Commissioners.

Janet Stevens, asked Howard Newman about the possibility of putting in a community water system on a smaller development. Is it just the cost that is not making it feasible?

Howard Newman said that he could not answer that as he was not an engineer and doesn't design the systems. However, he said he thought that the well construction and the pumps run into the thousands of dollars. The construction of the storage tank is very expensive.

Andy Fisher said that there is more involved in this than the expense of the tank, it is the return to John Diddel, the developer. It could run approximately \$150-200,000.

Barbara Evans asked for a clarifying of the acreage of the property. 79.8 on the land on the bench, 48-50 in the lower portion?

Wally Congdon stated that it is a total of approximately 50 acres on the lower portion with 79.8 acres of land on the bench.

Barbara Evans asked Wally Congdon if the allowed density of the present zoning that would allow 92 houses altogether?

Wally Congdon said that was correct.

Barbara Evans complemented the developers and his representatives because they did a good faith effort to design a good project. She said she understood why the developer had such a distaste for the PUD process, because the criteria is very nebulous. The beauty is in the eye of the beholder in PUD's. Evans said that the proposal does qualify as to numbers, but there are still questions regarding design. A PUD is supposed to be a trading process whereby the developer provide specific things of great benefit that the developer would otherwise would not have to provide, and in turn, the Commissioners give the developer something such as increased densities. It wasn't clear when reading all of the information, whether or not the 42-50 acres in the lower portion were part of this proposal or not. It is now clear that it is part of the proposal contingent upon any rules the Commissioners want to set. Number-wise, the developers are probably within the numbers. Design-wise, Evans stated she wasn't satisfied with the design. She would like to see something more creative; although there is no creativity in the layout of homes around the proposed subdivision. She is also concerned about the riparian area and the wildlife. To the residents around the proposed subdivision, she said that the comment "not in my back yard" is very accurate. Everyone complains that their kids move out of Missoula because there are no jobs and there are no homes. The homes cannot be put in someone else's backyard; some of them have to be in each of our backyards. If the residents want to provide protection for the things they want to look at; it cannot be expected that Mr. McClay should sit on his property forever because the residents like to look at it. If they want this area to be kept open-space, then Evans recommended that they buy the properties. As long as the rules allow development, there is going to be development and growth.

Janet Stevens commented on the strain on the infrastructure of this area, both with the roads, water and sewer, fire and law enforcement services, etc. Also should be looked at is what has caused that initial problem which is certificate of survey. At least half of the residents purchased the land, not by subdivision, but by Certificate of Survey. Those COS's do not go through public review to look at the infrastructure. That is where Missoula County is running into problems. There is no problem generally with the subdivision process, it is the unplanned divisions that cause the problems.

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Barbara Evans stated that she had asked the Surveyors office to put together figures for the money that has been spent for the O'Brien Creek/Blue Mountain Road area in the last 10 years. Strictly for capital items, the money spent has been \$200,759.00. The residents are getting attention from the County. In addition, the Forest Service has committed to the County that they will, with the County, pave all but the 1/2 mile that will be left on the Blue Mountain Road. The County recognizes that the residents have problems in this area. The County is doing all that it can to take care of the problems. One of things that Evans said she appreciated about the developer is the fact that he has offered some financial contribution to that road. Evans hoped that legally, the County could get from every development that goes in this area, a waiver on SID's so that everyone that lives out there will have to pay to upgrade the road. She hoped that the fact that the road will be fixed, with the exception of the 1/2 mile (with the County trying to find a way to upgrade this stretch as well), was some comfort to the residents.

A general discussion ensued as to the wording of a motion.

Ann Mary Dussault explained that there are issues that need to be addressed further on this issue. They are as follows:

1. Determine the additional land acreage and where it actually is located.
2. Staff to review proposal to determine potential of land.

There is a disagreement on what the allowable density is and what the developers breaking point regarding the community water system is. Questions remain if the density could be less.

Staff of OCD and the Health Department needs to review Howard Newman's, (Consulting Hydrologist), report. A management plan of open space of riparian area needs to be prepared. It is clear that if this development occurs, it must be made sure that the development is paying its' fair share of the RSID--regardless of the \$35,000.00 donated by the developer.

Horace Brown asked that if the Board decides on a cluster-type subdivision that the Surveyor's office get a chance to look at the road design. One of the road designs increases the cost by about one third.

Ann Mary Dussault stressed the need for involvement of the various homeowners associations in the area. The need to communicate with the representatives is important.

Barb Martens said that the deadline for a decision is November 4th, 1991. This can be extended.

Marnie McClain, deputy County Attorney, said that the 48 days decision deadline has begun to run. However, from a logical point of view, the PUD question needs to be addressed first.

Ann Mary Dussault said it would have to be mutually agreed upon that the 48 days for the decision be extended.

Janet Stevens moved and Ann Mary Dussault seconded the motion that the action on this PUD rezoning and subdivision proposal be postponed to enable the applicant to make further modifications to bring the project more closely in line with the stated intent of Missoula County's PUD district. If the applicant expresses his unwillingness to attempt such project modifications, the PUD rezoning and subdivision proposal should be denied. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the hearing was recessed at 10:55 p.m.

* * * * *

OCTOBER 24, 1991

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

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Tina Hunt as principal for check #25378, dated June 7, 1991, on the Missoula County High Schools' Insurance Trust Fund in the amount of \$12.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

At the daily administrative meeting held in the afternoon, 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'92 budget:

No. 920006, a request to transfer \$2,250.00 from the Capital - Improvements (Range Improvements) to the Capital - Technical Equipment account to purchase radios for command personnel, as per the memo attached to the original transfer on file in the budget files.

Agreement

Chair Dussault signed an Agreement (408-92-05), dated October 1, 1991, between Missoula County and the Montana Highway Traffic Safety Administrator for the proposed project of increasing safety restraint use to 70% in 1992 and to decrease alcohol-related motor vehicle accidents, as per the items set forth, to be completed by September 30, 1992, for a total payment by the State not to exceed \$6,000.00 to be used for DUI overtime patrol, including the Montana Highway Patrol conducting safety spot checks. The Agreement was forwarded to Albert Goke, Highway Traffic Safety Administrator, in Helena.

Agreement

Chair Dussault signed an Agreement (91-03-03-1), dated October 1, 1991, between Missoula County and the Montana Highway Traffic Safety Administrator for the proposed project of increasing safety restraint use to 70% in 1992 and to decrease alcohol-related motor vehicle accidents, as per the items set forth, to be completed by September 30, 1992,, for a total payment by the State not to exceed \$45,000.00 for personnel services and commodities. The Agreement was forwarded to Albert Goke, Highway Traffic Safety Administrator, in Helena.

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

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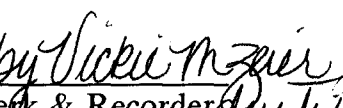
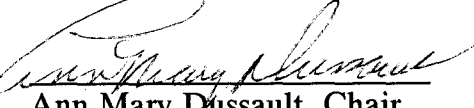
OCTOBER 25, 1991

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

Resolution No. 91-095

The Board of County Commissioners signed Resolution No. 91-095, resolving that the 1991 fire season end at 8:00 a.m. on Saturday, October 26, 1991; that the emergency proclamation of October 16, 1991, is terminated; and that open burning requires an air quality permit from the Missoula Health Department.

OCTOBER 25, 1991 (cont.)




 Wendy Cromwell, Clerk & Recorder Deputy Ann Mary Dussault, Chair
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OCTOBER 28, 1991

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 Sound West as principal for Warrant #046007, dated September 18, 1991, on the Missoula County Claims Fund in the amount of \$3,051.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Proclamation

The Board of County Commissioners signed a Proclamation, proclaiming support of the Health Care with Dignity Festival to be held on Sunday, November 3, 1991, at the Church of the Holy Spirit, and urge all Missoula County residents to attend and support Health Care workers.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and a Warranty Deed from Missoula County to William J. and Aleth L. Koch, for the premises described as Lot 4 of Grantland 12, according to the Official recorded Plat thereof recorded in Book 14 of Plats at Page 11, records of Missoula County, Montana. The Deed was returned to Jim Dopp, Operations Officer, for further handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Donna Wierson, an independent contractor, for the purpose of providing professional nursing services as required to persons incarcerated in the Missoula County Detention Center, as per the terms set forth, commencing October 15, 1991, and ending June 30, 1992, for a payment of \$13.00 per hour with a two hour minimum.

Other items included:

The Commissioners appointed William H. Gilman as a "regular member" of the Missoula County Zoning Board of Adjustment to fill the unexpired term of Pel Turner through December 31, 1991, at which time he will be eligible to be reappointed to a two-year term.

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

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OCTOBER 29, 1991

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

Audit List

Commissioners Stevens and Evans signed the Audit List dated October 28, 1991, pages 3-29, with a grand total of \$182,751.03. The Audit List was returned to the Accounting Department.

OCTOBER 29, 1991 (cont.)DAILY ADMINISTRATIVE MEETING

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

Modification of Agreement

Chair Dussault signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences for the purpose of modifying Section II of the Agreement between them concerning development of community-based consortia to help individuals with HIV infection and their families to get needed services (DHES No. 320220), as set forth in the Modification. The document was forwarded to DHES in Helena.

Resolution No. 91-096

The Board of County Commissioners signed Resolution No. 91-096, a budget amendment for FY'92 for the Health Department, including the following expenditure and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditure</u>		<u>Budget</u>
2270-612-447100-328	Contracted Services	\$1,500.00
<u>Description of Revenue</u>		<u>Revenue</u>
2270-612-344030	Early Intervention	\$1,500.00

Reimbursement to be received by SDHES for early intervention services provided to HIV patients.

Resolution No. 91-097

The Board of County Commissioners signed Resolution No. 91-097, a budget amendment for FY'92 for the Sheriff's Department, including the following expenditure and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditures</u>		<u>Budget</u>
1000-300-420180-152	Clearwater Fire (Reserve deputies & overtime)	\$8,339.72
<u>Description of Revenue</u>		<u>Revenue</u>
1000-300-342015	Dept. of State Lands - MT (Reimbursement)	\$8,339.72

Approach Application and Permit

Commissioners Evans and Dussault signed, with Commissioner Stevens opposing, an Approach Application and Permit for James L. Story of Big Flat Road, for permission to construct a 20-foot wide approach to a County Road described as Parcel 4C2 of COS #2238, as per the conditions set forth by the County Surveyor. The Permit was returned to Bob Holm, Operations Superintendent at the Road Department.

Notice of Hearing

The Board of County Commissioners signed a Notice of Hearing on proposed amendments to a County Resolution which provides for the granting of tax incentives to new and expanding industries, setting the hearing date for November 20, 1991, at 1:30 p.m.

OCTOBER 29, 1991 (cont.)**Policy Statement 91-A**

The Board of County Commissioners signed Policy Statement 91-A regarding the Sale of Tax Deed Lands/Disbursement of Proceeds for the purpose of guidance in the distribution of proceeds from the sale of tax deed lands acquired, and subsequently sold, by Missoula County, affecting the Treasurer, Clerk & Recorder, Accounting, and General Services' Departments, as per the policy items set forth.

Modification of Agreement

Chair Dussault signed a Modification of the Agreement between Missoula County and the Montana Department of Health and Environmental Sciences to modify the terms of the Agreement between them (DHES Contract No. 220041-1) concerning assisting Missoula County to conduct its own air pollution control program, amending Section III, "Consideration", and Paragraph IV(A) of Attachment A as set forth in the Modification. The document was forwarded to DHES in Helena.

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

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OCTOBER 30, 1991

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

Monthly Report

Chair 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 October 18, 1991.

DAILY ADMINISTRATIVE MEETING

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

Agreement and Notice of Lease-Option Agreement

The Board of County Commissioners signed an Agreement between Missoula County, Gene Clyatt, and Groenig Developments, Inc., a Washington Corporation, whereby Groenig Developments has reached an agreement with the County for the redemption of Lots 15, 16, 17, and 18 of Block 6, West View Addition, which was taken for tax deed; Gene Clyatt has reached a lease-option agreement with Groenig Developments for Lots 16, 17, and 18, of which Missoula County is aware, and the parties have agreed to honor and abide by each others respective obligations relating to the lease and/or purchase of this property, as per the terms and conditions set forth.

Quit Claim Deed

The Board of County Commissioners signed a Quitclaim Deed from Missoula County to Groenig Developments, Inc., a Washington Corporation, for Lot 15, in Block 6 of West View No. 3, tax deed property which has been redeemed. The Deed was returned to the Clerk and Recorder's Office for further handling.

OCTOBER 30, 1991 (cont.)Proclamation

The Board of County Commissioners signed a Proclamation, recognizing and proclaiming December 7, 1991, as Tubachristmas Day, 1991, and urges all citizens to attend and enjoy the Tubachristmas concert at the Holiday Inn Parkside and at Southgate Mall.

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

WEEKLY PUBLIC MEETING

Chair Ann Mary Dussault opened the Public Meeting at 1:30 p.m. Also present was Commissioner Barbara Evans.

CONSIDERATION OF: DOUBLE ARROW RANCH - PHASE I - LOTS 208A & 208B (SUMMARY PLAT)

John Mangiameli, Office of Community Development, presented information relative to a request for the Re-subdivision of Lot 208 Double Arrow Ranch Phase 1A -- Summary Plat.

He said Double Arrow Ranch Phase 1A received Final Plat approval on December 21, 1977.

The proposed subdivision of Lots 208A and 208B of Double Arrow Ranch Phase 1A creates lots of 1.85 and 8.11 acres respectively. The proposed subdivision is located west of Highway 83, just south of Seeley Lake, Montana. The Clearwater River bisects Lot 208, creating a common boundary for Lots 208A and 208B.

The Office of Community Development staff recommends that the Summary Plat for Lot 208 Double Arrow Ranch Phase 1A be approved, subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and Local health authorities.
2. The developer shall attach as an amendment to the Covenants, the letter written by the Board of County Commissioners, dated October 25, 1991.
3. The developer shall provide utility easements in the appropriate areas.
4. The developer shall show the limits of Floodplain on the face of the Plat.

Ann Mary Dussault opened the meeting to public comment.

Dick Ainsworth, Professional Consultants, agreed with OCD's recommendation numbers 1, 3, and 4. He had questions about number 2 in regards to the covenants and what OCD staff meant by an amendment to the covenants.

A general discussion ensued as to the meaning of condition number 2.

Barbara Evans clarified the condition by changing the recommendation to state that instead of addending the list to the covenants, a letter could be provided to each of the purchasers.

The following is a list of requirements that the Board of County Commissioners feels will provide for the public health, safety and general welfare, and reduce adverse impacts to wildlife:

1. Outside food sources including but not limited to compost piles and fruit trees are discouraged. Garbage, pet food, and barbecue grills shall be stored indoors, so as not to attract wildlife. In addition, salt blocks, and feeding platforms for deer and other large mammals shall be prohibited on any premises. All carcasses of dead animals shall be removed immediately.
2. Homeowners should not plant flowers, ornamental shrubs, or gardens without fencing them to prevent damage caused by feeding deer and bear.

OCTOBER 30, 1991 (cont.)

3. Domestic animals, such as dogs and cats shall be prohibited from roaming off the owner's property. All pets should be under the close supervision of the owner at all times.
4. Snags and potential perch/nesting trees (i.e. large ponderosa pine, larch, cottonwood) for bald eagles and other raptures shall be protected.
5. Removal of natural vegetation within the riparian zone of the Clearwater River shall be prohibited.

Dick Ainsworth commenting on number 2 from the above list of requirements, said that it would be foolish to require persons to fence gardens, etc. He was also concerned with number 5. He agreed with the concept; but to totally prohibit the removal of natural vegetation in the riparian zone is a little strict. The owners of the property should have the right and the ability to do some clearing of brush. They shouldn't clear the riparian zone. The language should strongly suggest that the residents shouldn't destroy the natural vegetation. This wording leaves an opening to do a minimal amount of clearing and management of the land.

Ann Mary Dussault closed the meeting to public comment as there were no further comments.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the Summary Plat of Lot 208A and 208B of the Double Arrow Ranch Phase IA and subject to the conditions as follows:

1. Sanitary restrictions shall be lifted by State and Local health authorities.
2. The developer shall give a letter containing the list of requirements to each of the purchasers of the two pieces of land that would include:
 1. Outside food sources including but not limited to compost piles and fruit trees are discouraged. Garbage, pet food, and barbecue grills shall be stored indoors, so as not to attract wildlife. In addition, salt blocks, and feeding platforms for deer and other large mammals shall be prohibited on any premises. All carcasses of dead animals shall be removed immediately.
 2. Homeowners should be aware when they plant foliage or shrubs or gardens that damage may be caused by feeding deer and bear, and therefore, they may want to fence their property.
 3. Domestic animals, such as dogs and cats shall be prohibited from roaming off the owner's property. All pets should be under the close supervision of the owner at all times.
 4. Snags and potential perch/nesting trees (i.e. large ponderosa pine, larch, cottonwood) for bald eagles and other raptures shall be protected.
 5. The natural vegetation along the Clearwater River provides wildlife with necessary cover, forage and security. In addition, the riparian area play a major role in the Clearwater's water quality. The vegetation that grows along the bank filters out sediments and other pollutants before they reach the water. Therefore, the removal of natural vegetation along the Clearwater River should be minimal.
3. The developer shall provide utility easements in the appropriate areas.
4. The developer shall show the limits of Floodplain on the face of the plat.

Motion carried on a vote of 2-0.

OCTOBER 30, 1991 (cont.)

A discussion ensued regarding the method of enforcing the above requirements by giving the list to the home buyers. It was decided that the list of requirements be given to first time buyers. There is no way to ensure that this list be provided to subsequent buyers.

CONSIDERATION OF: BIG SKY LAKE ESTATES - LOTS 09, S, S1, AND S2
(SUMMARY PLAT)

Barbara Martens, OCD, presented information relative to Lots 09, S, S1 and S2 of Big Sky Lake Estates, A Re-subdivision of Government Lot 1 - Summary Plat.

Lots 09, S, S1 and S2 of Big Sky Lake Estates, A Re-subdivision of Government Lot 1 is a master planned recreational subdivision near Salmon Lake. The lake (formerly Fish Lake) is owned by the Big Sky Lake Property-owner's Association. The land surrounding the lake is either owned by private individuals, the Property-owner's Association, or by the Big Sky Lake Company (the Corporation which planned the development). This subdivision consists of four lots. The lots range in size from 1.76 acres to 2.24 acres.

The Office of Community Development staff recommends that Lots 09, S, S1 and S2 - Summary Plat be approved, subject to the conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. The developer shall provide the October 3, 1991 letter from Amy O'Herren, of the Rural Planning Department, as an addendum to the covenants to provide homeowners with knowledge regarding human/wildlife issues and the goals of the Seeley Comprehensive Plan for the Big Sky Lake area.
3. The developer shall provide utility easements in the appropriate areas.

The following recommendations from the office of Rural Planning are intended to protect the natural resources in the Big Sky Lake area while promoting the economic health and welfare of area residents and landowners.

1. Outside food sources including, but not limited to, compost piles and fruit trees should be discouraged. Garbage, pet food, barbecue grills should be stored indoors, so as not to attract wildlife. A garbage/trash collection system should be developed for the Big Sky Lake Estates, which would include bear-proof containers. In addition, salt blocks and feeding platforms for deer shall be discouraged on any premises. All carcasses of dead animals shall be removed immediately.
2. Homeowners should be advised not to plant flowers, ornamental shrubs, or gardens without fencing them to prevent damage caused by feeding deer and bear.
3. Future landowners should be encouraged to engage in continual beautification of homesites by removing or concealing junk cars, equipment and buildings as well as litter and noxious weeds.
4. Domestic animals, such as dogs and cats, should not be allowed to roam off the owner's property. All pets should be under the close supervision of the owner.
5. Potential perch/nesting trees (ie. large ponderosa pine, arch, cottonwood) for bald eagles and other raptures should be protected.
6. Chemicals, gasoline and other toxins should not be stored in close proximity to Big Sky Lake.
7. Due to the close proximity to Big Sky Lake, the sewage treatment systems should be inspected annually to prevent problems.

OCTOBER 30, 1991 (cont.)

8. The Seeley Lake Community Council should be contacted regarding this proposal. (Dan Mizner, P.O. Box 30, Seeley Lake, Montana 59868.)
9. Future landowners should be aware of existing air quality regulations and voluntary methods of protecting air quality in the Big Sky Lake area.

Ann Mary Dussault opened the meeting to public comment.

A. P. Hollinger, questioned the feasibility of some of the items in the above list of recommendations.

Barbara Evans stated the kind of people that move into this area are the kind of people that want to protect the area. The Board would like to give them information which helps to make this easier for them, the wildlife and the environment. The recommendations are suggestions for the people who live in these areas. There isn't going to be anyone going out there to enforce these suggestions as they are advisory.

The first time buyer would receive the copy of this list at the time of purchase. The list would not be included in the covenants. The homeowners association could share this information with subsequent new buyers.

There being no further comment, Ann Mary Dussault closed the meeting to public comment.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve lots 09, S, S1 and S2 of the Big Sky Lake Estates including the findings of fact and the conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. The developer shall provide the October 3, 1991 letter from Amy O'Herren, of the Rural Planning Department, to provide homeowners with knowledge regarding human/wildlife issues and the goals of the Seeley Comprehensive Plan for the Big Sky Lake area.
3. The developer shall provide utility easements in the appropriate areas.

Motion carried on a vote of 2-0.

HEARING: SCHWENK ADDITION NO. 2 (SUMMARY PLAT)

Barbara Martens, OCD presented information relative to Schwenk Addition No. 2 - Summary Plat.

Schwenk Addition No. 2 is a proposed five lot subdivision on 6.23 acres. The lots range in size from one to two acres. The subdivision is located southwest of the intersection of Humble and Sundown Roads in the Target Range area. Cash-in-lieu of parkland will be paid to the County park fund.

The Office of Community Development staff recommends that the Schwenk Addition No. 2 - Summary Plat be approved, subject to the conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. Cash-in-lieu of parkland shall be paid to the County park fund to meet the parkland requirement.
3. The developer shall include a statement on the face of the subdivision plat and in each instrument of conveyance, which states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of Humble Road and Sundown Road and may be used in lieu of their signatures on an RSID petition.

OCTOBER 30, 1991 (cont.)

4. 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 further that the documents contain the applicable provisions required by these regulations and any other provisions upon which plat approval was based or conditioned, and that the provisions do not conflict.

Ann Mary Dussault opened the hearing to public comment.

Nick Kaufman, Sorenson & Co., representing Jack Schwenk, stated that the waiver of the right to protest the RSID be respective to the property. The RSID should be equal to the benefit of the property.

Barb Martens explained that when the RSID is developed, that the assessment be made according to the benefit factor. OCD is in agreement with Nick Kaufman.

There being no further comments, Ann Mary Dussault closed the hearing to public comment.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the Summary Plat for Schwenk Addition No. 2 including findings of fact and the conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. Cash-in-lieu of parkland shall be paid to the County park fund to meet the parkland requirement.
3. The developer shall include a statement on the face of the subdivision plat and in each instrument of conveyance which states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID based on benefit for the upgrading of Humble Road and Sundown Road, and may be used in lieu of their signatures on an RSID petition.

Motion carried on a vote of 2-0.

HEARING: PATTON ESTATES - LOTS 2A AND 2B (SUMMARY PLAT)

Barb Martens, OCD, presented information relative to Patton Estates, Lots 2A and 2B - Summary Plat.

Patton Estates, Lots 2A and 2B is a re-subdivision of Patton Estates, Lot 2. The subdivision is located just east of Upper Miller Creek Road and west of Stonehaven Avenue. Lot 2A (1.5 acres) will access onto Stonehaven Avenue and 2B (1.84 acres) will access onto Upper Miller Creek Road. Cash-in-lieu of parkland was previously dedicated with the platting of Patton Estates.

The Office of Community Development staff recommends that the Patton Estates, Lost 2A and 2B Summary Plat be approved, subject to the conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. All driveways shall be paved a minimum of twenty feet (20') back from Stonehaven Avenue and Upper Miller Creek Road. The driveways shall be provided for at the time the lots are built on or in the covenants or each lot.
3. The developer shall provide easements for utilities in the appropriate areas.
4. Access easements and approach permits shall be approved by the County Surveyor's office.

OCTOBER 30, 1991 (cont.)

OCD staff has received a letter of protest from Brent and Michelle Harshbarger, the owners of Lot 3. Points of concern were diminishing property values with the addition of more homes; the privacy of the scenic valley would be diminished by the additional homes; water quality; ecological concerns.

A comment received by OCD from Doug Kikkert, Environmental Health Specialist, addressed issue of the septic system. He stated that his office does not feel there is a septic failure problem in the proposed density for Lots 2A and 2B.

Barb Martens said that there had also been a question about the air stagnation zone for this area. These properties are in the air stagnation zone and in the County regulation it states that:

1) two lots serve to constitute a driveway standard. Two lots will be accessing onto Upper Miller Creek Road. The remaining lots (1, 3, & 5) are required on the previous platting are accessible onto Stonehaven Avenue. Staff recommended at this point in time, the first 20 feet be paved. Lot 4 will have 2 lots that will access onto Stonehaven. There is a very short distance where lot 5 would use that same access point into their lot. Technically, 3 lots could trigger a private road for lots 4A, 4B and 4C utilizing that small segment of private road access off of the corner of Stonehaven and Loraine. The staff recommended that a 20 foot apron be required at that point in time.

2) If there is a variance requested in the future for roadways (3 lots trigger a private roadway), the Health Department. in the air stagnation requirements have stated that it may not serve more than 3 single family dwellings. Paving would be triggered. A variance would not be allowed if there were four or more residences.

Ann Mary Dussault opened the hearing to public comment.

Andy Fisher, Eli & Associates, agreed with the OCD's staff recommendation.

Ann Mary Dussault closed the hearing to public comment.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the Summary Plat for Patton Estates for Lots 2A and 2B subject to the findings of fact and the staff conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. All driveways shall be paved a minimum of twenty feet (20') back from Stonehaven Avenue and Upper Miller Creek Road. The driveways shall be provided for at the time the lots are built on or in the covenants or each lot.
3. The developer shall provide easements for utilities in the appropriate areas.
4. Access easements and approach permits shall be approved by the County Surveyor's office.

Motion carried on a vote of 2-0.

HEARING: PATTON ESTATES - LOTS 4A, 4B, AND 4C (SUMMARY PLAT)

Barb Martens, OCD presented information relative to Patton Estates, Lots 4A, 4B and 4C - Summary Plat.

Patton Estates, Lots 4A, 4B and 4C is a re-subdivision of Patton Estates, Lot 4. The subdivision is located just east of Upper Miller Creek Road and west of Stonehaven Avenue. Lot 4A (1.5 acres) and Lot 4B (2.00 acres) will access onto Stonehaven Avenue and 4C (1.53 acres) will access onto Upper Miller Creek Road. Cash-in-lieu of parkland was previously dedicated with the platting of Patton Estates.

OCTOBER 30, 1991 (cont.)

The Office of Community Development staff recommends that the Patton Estates, Lots 4A, 4B and 4C - Summary plat be approved, subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. All driveways shall be paved a minimum of twenty feet (20') back from Stonehaven Avenue and Upper Miller Creek Road. The driveways shall be provided for at the time the lots are built on or in the covenants for each lot.
3. The developer shall provide easements for utilities in the appropriate areas.
4. Access easements and approach permits shall be approved by the County Surveyor's Office.

Ann Mary Dussault opened the hearing to public comment.

Andy Fisher, agreed with the OCD staff recommendation.

As there was no further comment from the public the hearing was closed.

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the Summary Plat for Patton Estates for Lots 4A, 4B and 4C subject to the findings of fact and the staff conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. All driveways shall be paved a minimum of twenty feet (20') back from Stonehaven Avenue and Upper Miller Creek Road. The driveways shall be provided for at the time the lots are built on or in the covenants for each lot.
3. The developer shall provide easements for utilities in the appropriate areas.
4. Access easements and approach permits shall be approved by the County Surveyor's Office.

Motion carried on a vote of 2-0.

There being no further business to come before the Board, the Public Meeting was recessed at 2:10 p.m.

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OCTOBER 31, 1991

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 World Almanac Education as principal for warrant #2774, dated February, 1991, on the Sunset School District #30 General fund in the amount of \$66.57 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

OCTOBER 31, 1991 (cont.)

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'92 budget:

No. 92007, a request to transfer \$15,277 from the various accounts listed on the attachment to the original transfer on file in the Budget Office to the accounts listed, as the Health Education division receives two Traffic Safety grants--these grants are combined for budget purposes and ease, but must be separate for audit compliance.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and Emery Computer, Inc. for the purpose of providing hardware, related materials and specific warranty services as per the terms set forth.

Agreement Amendment

Chair Dussault signed an Amendment to the Consolidated Agreement between Missoula County and Unisys (Agreement No. 88120222) for the purchase and maintenance of a memory upgrade for the mainframe. The Amendment was returned to Jim Dolezal in Data Processing for further signatures and handling.

Service, License and Maintenance Agreement

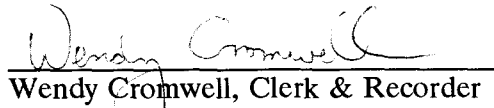
Chair Dussault signed a Service, License and Maintenance Agreement between Missoula County and Emery Computer, Inc. for the purchase of hardware and related materials, as per the terms set forth.

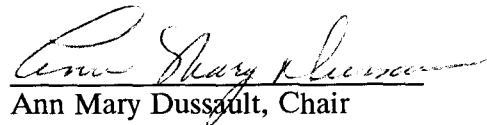
The minutes of the daily administrative meeting are on file in the Commissioners Office.

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NOVEMBER 1, 1991

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


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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NOVEMBER 4, 1991

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 #20 (9/15/91 through 9/28/91) with a total Missoula County Payroll of \$387,605.67. 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 #21 (9/29/91 through 10/12/91) with a total Missoula County Payroll of \$383,406.40. The Transmittal Sheet was returned to the Auditor's Office.

Memorandum of Agreement

The Board of County Commissioner signed a Memorandum of Agreement between Missoula County and the Watershed Foundation for the purpose of sponsoring a cultural and aesthetics project in Missoula County, as per the terms set forth, commencing July 1, 1991, and ending June 30, 1993, for a total amount not to exceed \$27,500.00.

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

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NOVEMBER 5, 1991

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 5, 1991, pages 3-23, with a grand total of \$69,353.45. The Audit List was returned to the Accounting Department.

Monthly Reports

Chair Dussault examined, approved and ordered filed the monthly reconciliation reports for Justices of the Peace, David K. Clark and Michael D. Morris, for month ending October 31, 1991.

DAILY ADMINISTRATIVE MEETING

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

Acceptance of Additional Funds

Chair Dussault signed acceptance of Missoula County's allocation of the MCH Block Grant carryover money amounting to \$16,146.00. The form was returned to Maxine Ferguson of the Family/MCH Bureau of DHES in Helena.

NOVEMBER 5, 1991 (cont.)Notice of Hearing

Chair Dussault signed a Notice of Hearing on the application of Sun Mountain Sports for tax incentives under Resolution 87-080 regarding tax incentives for new and expanding industry, setting the hearing date for November 27, 1991, at 1:30 p.m.

Declaration to Vacate, Abandon and Void Declaration of Covenants

The Board of County Commissioners signed a Declaration to Vacate, Abandon and Void the Declaration of Covenants affecting Tract 1 of Bitterroot Homes Addition No. 2, which were adopted on March 12, 1964, and the original term of the covenants (25 years) has now expired.

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

* * * * *

NOVEMBER 6, 1991

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 considered:

- 1) the transfer of park property to Frenchtown Rural Fire District was discussed and the Commissioners will have Mike Sehestedt, Deputy County Attorney, draft the appropriate documents; and
- 2) the Memorandum to Robert Holm of the Surveyor/Road Department from John Pemberton, Personnel Director, regarding his promotion to the position of Operations Superintendent at the Road Department was approved by the Commissioners.

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

WEEKLY PUBLIC MEETING

Commissioner Barbara Evans opened the Public Meeting at 1:30 p.m. in the absence of Chair Ann Mary Dussault. Also present was Commissioner Janet Stevens.

HEARING: (CERTIFICATE OF SURVEY) USE OF OCCASIONAL SALE, FAMILY TRANSFER & AGRICULTURAL EXEMPTION (STOUT)

Marnie McClain, Deputy County Attorney, explained that Nick Kaufman has submitted three exemption affidavits on behalf of Dr. Fred Stout. The subject property is the old Dussault ranch located on Mullan Road near Deshamps Lane (Tract 4C). Dr. Stout proposes to create four parcels as follows:

1. An occasional sale and a remainder.
2. A parcel gift to his daughter. According to the information supplied by the applicant, Dr. Stout's daughter is an adult and currently resides on the property.
3. An agricultural parcel along Primo Creek.

According to the Missoula County Surveyors office and the records in the office of the Clerk and Recorder, Dr. Stout created seven parcels over 20 acres in 1991 on the subject property.

Barbara Evans opened the hearing to public comment.

Nick Kaufman, Sorenson & Co., representing Dr. Stout, explained from an aerial photo what Dr. Stout wanted to request of the Commissioners.

At this time, Chair Ann Mary Dussault joined the Commissioners.

Barbara Evans commented that the occasional sale and remainder portion of the property is the first small split of the land.

NOVEMBER 6, 1991 (cont.)

Nick Kaufman said that Dr. Stout has never used an agricultural exemption or a gift to a family member. In 1991 Dr. Stout had Sorenson & Co. look at the property and do a layout for seven 20-acre tracks.

Barbara Evans said that she had talked to Marnie McClain in regards to this matter and felt that because this is the first small, under 20-acre split that Dr. Stout has attempted to do, she is willing to approve it. In her opinion, they are entitled to one split per 20 acres per year, unless the Board can prove that there is an attempt to evade the Subdivision and Platting Act.

Nick Kaufman said that if Dr. Stout cannot do an occasional sale and remainder, then a two lot summary plat would be done. The only difference between an occasional sale and remainder and a summary plat is the review process of agency review; the lots would look the same. A plat would be filed instead of a certificate of survey.

A discussion ensued regarding Dr. Stout's entitlement to an occasional sale.

Janet Stevens moved and Barbara Evans seconded the motion to approve the gift parcel and the agricultural exemption of the subject property which is the old Dussault ranch located on Mullan Road near Deshamps Lane (Track 4C). Motion carried on a vote of 3-0.

Barbara Evans moved to grant the occasional sale and remainder, there being no deliberate attempt to evade the subdivision act.

The motion was not seconded. Janet Stevens stated that Dr. Stout has done prior occasional sales--irregardless of the fact that they were 20 acres or more. If he came before the Board having just bought the 20 acres, and wanted to split the 20 acres, then that would be different; it could be approved.

HEARING: (CERTIFICATE OF SURVEY REVIEW) AGRICULTURAL EXEMPTION (CHAMPION TIMBERLANDS)

Marnie McClain explained that Dick Ainsworth submitted an affidavit for an agricultural exemption on a portion of Champion Timberlands ownership located in Section 28, Tract 16 North, Range 15 West, which was addressed in a request for Commission Action dated November 1, 1991. A hearing was scheduled before the Commissioners at this regularly scheduled public meeting and Mr. Ainsworth was present to represent his client. It was Marnie's recommendation that the affidavit be withdrawn by Mr. Ainsworth and that he proceed under Section 76-3-201 (1) MCA.

This section provides that the requirements of the Subdivision and Platting Act do not apply to any division of land which "...is created by order of any court of record in this state or by operation of law or which, in the absence of agreement between the parties to the sale could be created by an order of any court in this state pursuant to the law of eminent domain." (Emphasis supplied.) The purpose of this division, namely to provide a site for an already existing dam which controls the level of water in Placid Lake, is a public use of private property which could subject it to the eminent domain process in the absence of agreement between the parties.

Mr. Ainsworth agreed to withdraw his affidavit and proceed as described above.

There being no further business to come before the Board, the Public Meeting was recessed at 2:00 p.m.

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NOVEMBER 7, 1991

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

DAILY ADMINISTRATIVE MEETING

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

Quitclaim Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and a Quitclaim Deed from Missoula County to Missoula Investments, Inc., (George and Judith Hover), a Washington Corporation, for the premises described as Lot 8 in Block 8 of West View Addition No. 3, a platted subdivision in Missoula County, Montana, according to the official recorded plat thereof recorded in Book 11 of Plats

NOVEMBER 7, 1991 (cont.)

at Page 68, records of Missoula County, Montana. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and a Warranty Deed from Missoula County to Collin Bangs, Helen Garrick, and Patrick L. Lawler, for the premises located in the West one-half of the Northwest one-quarter of the Southeast one-quarter of Section 7, Township 12 North, Range 19 West, P.M.M., in Missoula County, Montana (Hillview Heights #6, Lots 1-14, Common Area and Street). The Deed was returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and P. David Edgell for Lot 9 of Grantland #12, as per the terms set forth, for a total purchase price of \$18,900.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Certification of Acceptance for Maintenance

Chair Dussault signed a Certification of Acceptance for County Maintenance for Delarka Drive. Road No. L 530, located in Section 2, T. 11 N., R. 20 W., PMM, .291 miles. The Certification was returned to Bob Holm in the Surveyor's Office.

Termination of Agreement

The Board of County Commissioners signed a Termination of Agreement and Disposition of Unexpended Earnest Money form, terminating and cancelling the Agreement to Sell and Purchase Lot #9 of Grantland #12 between Missoula County and Paul and Elizabeth Sharkey, and also agreeing that the earnest money in the amount of \$500.00 deposited with Gillespie Realty Co. will be returned in full to the Purchasers. The form was returned to Jim Dopp, Operations Officer, for further signatures and handling.

Replacement Bonds

Chair Dussault signed Bond #47 and #48 in the amount of \$15,000.00 and \$10,000.00 respectively for the County of Missoula, Hospital Revenue Refunding & Improvement Bond, Series 1978 Project, to replace Missoula County Hospital 1978 RV IMP, due 6/01/07 @ 7.125%, #605795B26 for \$25,000.00. The Replacement Bonds were returned to 1st Interstate Bank.

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

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NOVEMBER 8, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present in the forenoon. Commissioner Stevens was in Polson attending a meeting of the Mental Health Board, and Commissioner Evans was out of the office all afternoon.

Election Canvass

In the morning, Commissioners Dussault and Evans and County Auditor, Susan Reed, canvassed the results of the City Election, which was held November 5, 1991.

Indemnity Bond


Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Rainbow Enterprises as principal for warrant #221676, dated September 11, 1991, on the Seeley Lake Refuse District Fund, in the amount of \$2,836.00 now unable to be found.

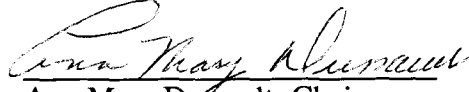
NOVEMBER 8, 1991 (cont.)Monthly Report

Chair Dussault examined, approved and ordered filed the monthly report for Sheriff Doug Chase, showing the items of fees and other collections on account of civil business in Missoula County for month ending October 31, 1991.

Quarterly Report

Chair Dussault signed the MCH Block Grant Quarterly Report for the first quarter (July-September, 1991) of State Fiscal Year '92, as submitted by the Health Department. The Report was returned to the Health Department for forwarding the Montana Department of Health and Environmental Sciences in Helena.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

NOVEMBER 11, 1991

The Courthouse was closed for the Veterans Day Holiday.

NOVEMBER 12, 1991

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

NOVEMBER 13, 1991

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

Audit List

Commissioners Dussault and Stevens signed the Audit List dated November 13, 1991, pages 4-33, with a grand total of \$126,601.40. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Quit Claim Deed

The Board of County Commissioners signed a Quit Claim Deed from Missoula County to Frenchtown Rural Fire District, for the premises described as Lots 7, 8 and 9 of Block 8 of the original townsite of Frenchtown, Montana, according to the official plat thereof on file in the Office of the Clerk and Recorder of Missoula County, Montana, as per the terms set forth, to be used for future expansion of the facilities at Station #1. The Deed was returned to the Clerk and Recorder's Office for further handling.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and Garden City Ballet, for the purpose of sponsoring a cultural and aesthetics project in Missoula County, as per the terms set forth, commencing July 1, 1991 and ending June 30, 1993, for a total amount of \$7,500.00.

Certification of Mileage

The Board of County Commissioners signed a form for the Montana Department of Transportation, Secondary Roads and Statistics Bureau, certifying that the rural road mileage in Missoula County, exclusive of the Federal-Aid Interstate and Primary systems, amounts to 1554.043 miles. The form was returned to Bob Holm in the Surveyor's Office.

NOVEMBER 13, 1991 (cont.)

Other items included:

The Commissioners reviewed the Audit of the Missoula County Sheriff's Department for Fiscal Years 1990 and 1991 as submitted by the County Auditor; the audit was forwarded to the Clerk & Recorder's office for filing.

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

WEEKLY PUBLIC MEETING

Chair Ann Mary Dussault opened the Public Meeting at 1:35 p.m. Also present were Commissioners Barbara Evans and Janet Stevens.

HEARING: PM-10 IMPLEMENTATION PLAN CHANGES (AIR POLLUTION REGULATIONS)

Jim Carlson, Director of Environmental Health, explained from the staff report that there are two items requested of the Commissioners:

1. To approve proposed amendments to Missoula County Air Pollution Regulations.
2. To approve proposed amendments to the Missoula PM-10 SIP.

Missoula is required to have a Federally approved plan to attain PM-10 particulate standards. The proposed resolutions and amendments should provide for an approvable plan. The regulation changes require de-icer in the central city area and allow for the installation of non-certified pellet stoves. The SIP amendments will become part of the previously approved SIP.

The amendments (which are on file in the Health Department) address the issues of requiring de-icer in the central city area and allow for the installation of non-certified pellet stoves were discussed in detail by Jim Carlson and Ken Anderson, Health Department.

Joe Aldergarie, Public Works Director for Missoula City, presented a material safety data sheet (which is on file in the Health Department) on the de-icer. From this information, Joe explained the effects of magnesium-chloride to be non-hazardous and non-toxic. The precautions that need to be taken are the same as when handling salt. He said it was found to be more effective than sand or salt applications.

Barbara Evans asked what the effects would be on the aquifer and plant life.

Joe Aldergarie commented that this product is far better than salt or sand in these aspects.

Ann Mary Dussault opened the hearing to public comment.

Dave Daniels, a resident of Missoula, expressed concern over the health aspects as well as road safety in regard to the de-icer. He was disturbed about the process the County has gone through to switch over to the de-icing product. The industrial sources of air pollution must be held accountable for clean air.

Mike Maughlin, a concerned resident of Missoula, expressed concern about the de-icer's effectiveness in comparison to gravel in the event of skidding, etc. Concern was also expressed regarding the air pollution issue and how the de-icer would cut down on the particulate counts and effect air quality.

Arnold Finklin, resident of Missoula, wanted to know what the difference was between road dust versus sanding materials as regards particulate counts. The de-icer versus sand application for reaction time to snow and ice was also of concern.

Will Snodgrass, spokesperson for Missoulians for Clean Environment, was concerned that the 3 major industries in Missoula are helping to pay for the implementation of the de-icer program. These industries can continue to pollute at present levels. Also of concern is the corrosiveness of the de-icer versus salt. Arsenic is listed as a trace element. There have been no studies conducted on this de-icer. What are the affects to humans, the aquifer, cars, etc.?

Jennifer Ferrinstein, expressed concerns over the product in regards to bike riders and what to do when coming in contact with the product. She wanted to know if it was possible to speak to other communities who have used this product. She also wanted to know when studies would be funded.

NOVEMBER 13, 1991 (cont.)

Dave Daniels spoke in favor of postponement of a discussion on this issue so that studies could be conducted on the product and a public hearing could be held in the evening.

As there were no further comments from the public, the hearing was closed.

A discussion ensued as to the percentages of the different contributing factors of air pollution in the Missoula valley.

Jim Carlson stated that there is little difference between road dust and sanding materials when analyzed.

Joe Aldergarie addressed the issue of the de-icer versus sand as to reaction time. He stated that the de-icer would continue on the areas all day as compared with sand that gets kicked off the road surface within a short period of time. If the snow or ice is deep, the de-icer takes a few extra minutes to become effective.

Ann Mary Dussault asked that the issue of bike riders getting the material on exposed skin be addressed.

Joe Aldergarie said his recommendation would be to treat this product just as a person would treat salt and sand. If an animal were to lick this material off his coat, the effects would be no more than the effects of salt. This material is approximately 3 times less corrosive than table salt. It will tend to dry out membranes more quickly than salt, however.

Ann Mary Dussault asked Joe Aldergarie to address the corrosive effects of this product on cars.

Joe Aldergarie said that Better Road Magazine stated that a survey of cities conducted in the Northern part of the United States and of Canada asked what materials they were using in terms of de-icer. Freeze-Guard (proposed material) and CG-90 were the number 1 choices in the United States in terms of de-icer.

Horace Brown, County Surveyor, stated that the rusting problem of cars in the last two years was not caused by Freeze-Guard as it was not used to that extent. Calcium-Chloride has been used increasingly. The result of increased use has been the rusting in the seams of cars, etc. Magnesium-Chloride will in his opinion, reduce the amount of corrosion and rusting.

Janet Stevens moved and Barbara Evans seconded the motion to approve the resolution adopting the Missoula area PM-10 Attainment Plan as amended to be submitted to the State Department of Health and Environmental Sciences for inclusion in the Montana State Implementation Plan. Motion passed on a vote of 3-0.

Janet Stevens moved and Barbara Evans seconded the motion to approve the resolution adopting the proposed revisions and amendments to the Missoula City-County Air Pollution Control Program be effective upon concurrence by the Montana Board of Health and Environmental Sciences. This includes the recommendation that studies be conducted within the two (2) years. Motion passed on a vote of 3-0.

Resolution No. 91-098

The Commissioners signed Resolution No. 91-098, a resolution approving the Missoula Area PM-10 Attainment Plan.

Resolution No. 91-099

The Commissioners signed Resolution No. 91-099, a resolution amending the Missoula City-County Air Pollution Control Program.

There being no further business to come before the Board, the meeting was adjourned at 3:15 p.m.

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NOVEMBER 14, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens left for Atlanta, GA to attend the NACo Employment Policy & Human Services Conference through Tuesday, November 19th.

NOVEMBER 14, 1991 (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 Randy (Mike) Johnson, as Independent Contractor, for the purpose of maintaining youth on a Home Arrest Agreement in lieu of the secure detention or jail placement, as per the terms set forth, commencing November 9, 1991, and ending June 30, 1992, for a total amount not to exceed \$3,984.00. The Contract was returned to Youth Court for further signatures and handling.

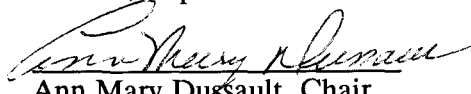
The minutes of the daily administrative meeting are on file in the Commissioners Office.

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NOVEMBER 15, 1991

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


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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NOVEMBER 18, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was in Atlanta, GA through November 19th attending the NACo Employment Policy & Human Services Conference.

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 #22 (10/13/91 through 10/26/91) with a total Missoula County Payroll of \$391,983.50. The Transmittal Sheet was returned to the Auditor's Office.

Professional Services Contracts

The Board of County Commissioners signed five Professional Services Contracts between Missoula County and Edgar Smith, Beverly Morse, Renee' Taaffe-Johnson, Mike DeMeng, and Jennifer Rudio, all 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 Art School as per the terms set forth, commencing October 1, 1991 and ending June 31, 1992, for a total payment not to exceed \$10.00 an hour.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Britt Finley, BSN, MEd, CCDC, RNC, an Independent Contractor, for the purpose of administrative interface, group training, organizational consultation, group facilitation, and assistance with a needs assessment/evaluation process for the Missoula Youth Council for Drug Abuse Prevention, commencing July 1, 1991 and ending June 30, 1992, for a total payment not to exceed \$6,000.00.

Flexible Benefits Plan

The Board of County Commissioners signed the final versions of the Missoula County Flexible Benefits Plan, the Missoula County Employee Pre-Tax Contribution Plan, and the Missoula County Dependent Care Account Plan, the documents needed to implement the Missoula County Flexible Benefits Plan, effective July 1, 1992, to provide benefits for certain of the County's employees, as per the definitions set forth in each of the three component plans.

NOVEMBER 18, 1991 (cont.)

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

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NOVEMBER 19, 1991

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

Audit List

Commissioners Evans and Dussault signed the Audit List, dated November 18, 1991, pages 4-32, with a grand total of \$94,321.21. 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. 91-100

The Board of County Commissioners signed Resolution No. 91-100, a resolution accepting an easement from Plum Creek Timber Company, Inc. for public road and all other public purposes, located in a portion of the W. 1/2 of Section 15, Township 21 North, Range 17 West, P.M.M., Missoula County, Montana.

Waiver of Right to Comment

Chair Dussault signed a form provided by the State Historic Preservation Office, waiving the County's right to comment on the proposed listing of the Florence Hotel in the National Register of Historic Places. The Waiver was forwarded to the State Historic Preservation Office in Helena.

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

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NOVEMBER 20, 1991

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:

Notice of Hearing

Chair Dussault signed a Notice of Hearing for the purpose of receiving testimony concerning amending Resolution No. 76-113 to revise and enact new land use fees for services rendered in Missoula County by the Office of Community Development, which would affect all areas of the County outside the City limits, setting the hearing date for December 4, 1991, 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'92 budget:

- 1) No. 92008, a request from the Personnel Department to transfer \$1,240.00 from the Office Supplies (\$800) and Copy Costs (\$440) accounts to the Capital - Office Equipment account for the purpose of replacing the old copy machine; and
- 2) No. 92009, a request from Medical Benefits to transfer \$1,240.00 from the Excess Reserves account to the Capital - Office Equipment account for the purpose of replacing the old copy machine.

NOVEMBER 20, 1991 (cont.)

Other items included:

The Commissioners appointed Cathy Rapp as a member of the Seeley Lake Community Council to fill a vacancy on the Council until the School Election in April of 1992.

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

WEEKLY PUBLIC MEETING

Chair Ann Mary Dussault called the Public Meeting to order at 1:35 p.m. Also present were Commissioners Barbara Evans and Janet Stevens.

HEARING: SPRING MEADOWS ADDITION (Preliminary Plat)

John Mangiameli, Office of Community Development, presented information relative to the preliminary plat for Spring Meadows Subdivision.

He said Spring Meadows is a new subdivision platted on the same property as Bay Meadows. This is not a re-subdivision of Bay Meadows and the master plan developed for Bay Meadows is no longer applicable. Although Spring Meadows is unfortunately left with the legacy of Bay Meadow's transportation network, it should be evaluated on its own merits. As the first subdivided development in the Wye/O'Keefe Plan's area, Spring Meadows sets the tone and foundation for all future development in the area. Staff feels that this subdivision meets the minimum requirements to achieve compliance with the Plan. However, to provide clear direction to the OCD and the development community, staff feels a re-evaluation of the Wye/O'Keefe Area Plan is needed.

The proposed Spring Meadows subdivision creates 67 lots on 53.2 acres. The proposed subdivision is located north of the Interstate 90 and US 93 intersection. It lies south and west of railroad right-of-way, east of Jim and Mary's RV Park, and north of agricultural land and Cartage Road. The character of the area is largely agricultural.

Previously OCD staff was concerned with only having one access onto Highway 93 with the number of proposed lots and after speaking with Bob Holm of the surveyors office, and John Marron of the State Highway Department, the staff found that Highway 93 is a limited access highway and there were some safety concerns with providing an additional access at this point. With the additional development taking place in this area, this issue may have to be revisited.

In the proposed subdivision, there was originally no centrally-located park. There is now a centrally-located park consisting of 1.3 acres along with a common area on the west side of the subdivision. Sprinklers and improvements will be provided for the park by the developer.

The Office of Community Development staff recommends that Spring Meadows Preliminary Plat be approved, subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and Local health authorities.
2. The developer shall provide utility and drainage easements in the appropriate areas.
3. The developer shall dedicate additional common land so as to provide an interior off-road pedestrian corridor that will become part of a community-wide pedestrian network as described in the Wye/O'Keefe Plan. This corridor shall be developed and be not less than 20 feet wide.
4. The developer shall vacate the subdivision plat of Bay Meadows prior to the filing of Spring Meadows.
5. Water supply for fire protection purposes and fire hydrant locations shall be approved by the Frenchtown Fire Chief.
6. All street names shall be approved by the County Surveyor.
7. The covenants shall bear the certification of the attorney who received or prepared them, that such attorney is licensed to practice law in the State of Montana, and that they contain the applicable provisions required by the County Subdivision Regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.
8. Grading, drainage, erosion control, and road plans shall be approved by the County Surveyor.
9. The Articles of Incorporation and By-laws of the Property-owners Association shall have proof of filing with the Secretary of State prior to filing of the plat.
10. All driveways shall be paved a minimum of 20 feet back from the roadway. The improved portion of the driveway shall consist of a gravel surface which is well drained. These driveways shall be provided for at the time the lots are built on, or in the covenants for each lot. The grade of the driveway shall not exceed 12%.

NOVEMBER 20, 1991 (cont.)

11. The developer shall submit a development plan for the central common area subject to OCD approval.
12. The staff enthusiastically recommends the Board of County Commissioners re-examine the Wye/O'Keefe Area Plan Amendment. Staff suggest modifications to the Plan so that it will account for the level of Certificate of Survey activity taking place in the area, and so that it provides the Office of Community Development and the development community the tools required to implement the Plan. Some of these tools include a mechanism by which open space can be acquired, a recognition that ownership patterns are not what they were in 1979, and the creation of a master plan that prescribes areas appropriate for development, sets appropriate densities, determines types of land use, and schedules when such areas should be developed.

OCD received a copy of the covenants, but has had no time to review them. OCD would like to suggest an additional condition that states that the staff could have an opportunity to review the covenants and that the covenants would be subject to OCD's approval.

Ann Mary Dussault opened the hearing to public comment.

Gilbert Larson, Druyvestein, Johnson and Anderson, representing Dave Theisen, stated that they concurred with OCD's recommendation.

Janet Stevens asked if the developer agreed with the condition of dedicated parkland (condition No. 3) and with the condition that OCD staff have the opportunity to review the covenants and thereby be subject to their approval.

Gilbert Larson stated that they agreed with both conditions.

There followed a discussion regarding the wording of Condition No. 7. It was decided that typographical errors existed in Condition No. 7 and these would be corrected.

There being no further comments, the hearing was closed.

Janet Stevens moved and Barbara Evans seconded the motion to approve the Spring Meadows Preliminary Plat subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and Local health authorities.
2. The developer shall provide utility and drainage easements in the appropriate areas.
3. The developer shall dedicate additional common land so as to provide an interior off-road pedestrian corridor that will become part of a community-wide pedestrian network as described in the Wye/O'Keefe Plan. This corridor shall be developed and be not less than 20 feet wide.
4. The developer shall vacate the subdivision plat of Bay Meadows prior to the filing of Spring Meadows.
5. Water supply for fire protection purposes and fire hydrant locations shall be approved by the Frenchtown Fire Chief.
6. All street names shall be approved by the County Surveyor.
7. The covenants shall be reviewed by the Office of Community Development and shall bear the certification of the attorney who received or prepared them, that such attorney is licensed to practice law in the State of Montana, and that they contain the applicable provisions required by the County Subdivision Regulations, and any provisions upon which plat approval was based or conditioned and that the provisions do not conflict.
8. Grading, drainage, erosion control, and road plans shall be approved by the County Surveyor.
9. The Articles of Incorporation and By-laws of the Property-owners Association shall have proof of filing with the Secretary of State prior to filing of the plat.
10. All driveways shall be paved a minimum of 20 feet back from the roadway. The improved portion of the driveway shall consist of a gravel surface which is well drained. These driveways shall be provided for at the time the lots are built on, or in the covenants for each lot. The grade of the driveway shall not exceed 12%.

NOVEMBER 20, 1991 (cont.)

11. The developer shall submit a development plan for the central common area subject to OCD approval.

The motion carried on a vote of 3-0.

HEARING: PROPOSED AMENDMENTS TO COUNTY RESOLUTION WHICH PROVIDES FOR GRANTING OF TAX INCENTIVES TO NEW AND EXPANDING INDUSTRIES

John DeVore, Missoula County Administrative Officer, explained that this is a hearing to amend the procedures for obtaining Property Tax Incentives for New and Expanding Industry.

The 1991 legislature amended the statutes governing the granting of tax incentives for new and expanding industry as follows:

1. Revising the definition of expansion to mean an industry which has added \$50,000 worth of qualifying improvements.
2. Amending the definition of Industry to mean a facility located in Missoula County.
3. Adding transportation, warehousing, or distribution of commercial products as an eligible activity.
4. Revising the definition of "New" to mean an industry who has invested at least \$125,000.

Staff recommends the adoption of the amendments to the procedures governing Tax Incentives.

Ann Mary Dussault opened the hearing to public comment.

Ron Klaphake, reviewed the tax incentives process and the benefits to expanding industry. Mr. Klaphake stated that he had a problem with the wording of the Appendix to the Resolution in Section 3 Subparagraph E, which states that the applicant must provide "an estimate of the number of new jobs that will be created by the new or expanded facility. This number should be broken down, if possible, by required job skills and salary ranges". This, he said, implies that industry will qualify only if their expansion creates jobs. He asked the Commissioners to analyze this particular wording and then reword it to ask that business provide an estimate of the impact on the number of jobs and also talk about long-term economic development. Economic development he said, doesn't always create jobs; it may mean the industry has to reduce the number of jobs in order to be as competitive as possible with other industry. This change would encourage investing for more businesses.

A general discussion ensued regarding the Appendix to the Resolution Section 3, Subsection F.

Ann Mary Dussault stated that this issue needed to be brought before the Board at another public hearing due to the fact that it was a major change in policy for the Commissioners. The issue at hand was the aforementioned resolution adopting the amendments to the procedures for obtaining Property Tax Incentives for new and expanding industry.

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

Barbara Evans moved and Janet Stevens seconded the motion to adopt the amendments submitted for the Property Tax Incentives for new and expanding industry. Motion carried on a vote of 3-0.

RESOLUTION NO.91-101

The Commissioners signed Resolution No. 91-101 adopting the amendments for the Property Tax Incentive for New and Expanding Industry.

There being no further business to come before the Board, the meeting was adjourned at 2:05 p.m.

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NOVEMBER 21, 1991

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:

NOVEMBER 21, 1991 (cont.)Agreement to Sell and Purchase

Commissioner Dussault signed an Agreement to Sell and Purchase between Missoula County and D. Albert and Karen R. Burgan for Lot 37 of Grantland #13, as per the terms set forth, for a total purchase price of \$22,500.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Approval

The Board of County Commissioners signed Approval for the Volunteer Health Professional Agreement for use in Missoula City-County Health Department programs, with the changes indicated from the Agreement approved on October 17, 1991. The Approval was returned to the Health Department.

Agreement for Provision of Professional Security Services

The Board of County Commissioners signed an Agreement for Provision of Professional Security Services between the Missoula County Sheriff's Department and Costco Wholesale for the purpose of providing traffic control to facilitate public access and egress during specified peak periods at the Costco facility, as per the terms set forth, commencing November 27, 1991, and ending December 1, 1991, for an amount of \$15.00 per hour plus 20.37% of the total for work performed by regular deputies and 12.7% of the total for work performed by reserve deputies. The Agreement was returned to the Sheriff's Office for further signatures.

Budget Transfer

The Board of County Commissioners approved and signed the following Budget Transfer for Youth Court - Home Arrest and adopted it as part of the FY'92 budget:

No. 92010, a request to transfer \$915.00 from the Copy Costs (\$150), Basic Phone Charges (\$320), Mileage - Private Vehicle (\$350), and Training (\$95) accounts to the Consultants (\$750) and Transcripts (\$165) accounts as the Home Arrest Program hired an assistant for weekends and holidays, to be grant funded.

Other matters included:

The Commissioners approved a recommendation from the County Park Board that the County enter into a lease agreement with the Missoula KEYS organization for a parcel of land at the Fort Missoula Recreation Complex for construction of a Safety Town; the parcel is approximately 1/3 acre in size, and a ten-year lease with two automatic renewals was recommended.

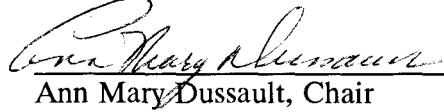
The minutes of the daily administrative meeting are on file in the Commissioners Office.

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NOVEMBER 22, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was in Helena attending a meeting of the MACo Health & Human Services Committee.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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NOVEMBER 25, 1991

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

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NOVEMBER 26, 1991

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

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 91-102

The Board of County Commissioners signed Resolution No. 91-102, a budget amendment for FY'92 for District Court, including the following expenditure and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditure</u>		<u>Budget</u>
2410-250-414401-929	District Court Automation	\$19,130
<u>Description of Revenue</u>		<u>Revenue</u>
2410-250-333018	Court Automation Grant	\$19,130

Plat

The Board of County Commissioners signed the plat for Bauman Addition, an amended plat of Lot 6, Block 2, Allomont Orchards, located in the NE 1/4, Section 35, T. 12 N., R. 20 W., P.M.M., Missoula County, Montana, a total subdivision area of 8.03 acres with the owner of record being Harold L. and Marvel D. Bauman.

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

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NOVEMBER 27, 1991

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.

Audit List

Commissioners Dussault and Stevens signed the Audit List dated November 27, 1991, pages 4-48, with a grand total of \$239,668.40. The Audit List was returned to the Accounting Department.

WEEKLY PUBLIC MEETING

Chair Ann Mary Dussault called the meeting to order at 1:35 p.m. Also present was Commissioner Janet Stevens.

HEARING: APPLICATION OF SUN MOUNTAIN SPORTS FOR TAX INCENTIVES FOR NEW AND EXPANDING INDUSTRY

John DeVore, County Administrative Officer, explained that this hearing was requested by Sun Mountain Sports for consideration of tax incentives under new or expanding industry.

He explained that Sun Mountain Sports has applied for tax incentives under Title 15 Chapter 24 part 14 MCA. The basic criteria for the application has been met. Sun Mountain Sports has approximately \$475,000 in qualifying improvements. There will be 28 additional positions created by this expansion, bringing their employment base to 344.

All statutory and policy criteria have been met. Staff recommends approval of the application.

Ann Mary Dussault opened the hearing to public comment.

C.E. Abramson, attorney representing Sun Mountain Sports, discussed the employee base criteria and showed that although employee numbers have fluctuated Sun Mountain, the averages still qualify in this area. New products at Sun Mountain have created the need for expanded manufacturing, which are now

NOVEMBER 27, 1991 (cont.)

being manufactured in the plant here in Missoula. The expanding industry of Sun Mountain Sports has netted jobs for the Missoula area.

Bill Dahlgren presented similar facts regarding the employee base.

Edward Berplancke, a concerned resident of the area surrounding Sun Mountain Sports, objected to the granting of tax incentives to Sun Mountain and expressed health and safety concerns for his neighborhood because of the expanded plastics production at the plant. Evacuation of the neighborhood in the event of a fire was another concern.

Bill Dahlgren replied to Mr. Berplancke's concerns, by stating that Sun Mountain is in compliance with the Health and Fire Departments as well as working with the Orin Olsgaard, of County Disaster and Emergency Services.

Janet Stevens said that a neighborhood evacuation plan is the responsibility of either the City or the County, and asked if Sun Mountain had an evacuation plan.

Bill Dahlgren said that Sun Mountain did have an evacuation plan in place and fire drills were conducted. OSHA recently visited the plant and were not satisfied with some of the implemented plans; Sun Mountain will be addressing these issues further.

Ann Mary Dussault stated that for Sun Mountain to engage in their current manufacturing activities, they have to be in compliance with any local zoning laws. She recommended that Mr. Berplancke speak with Orin Olsgaard, who would coordinate evacuation plans for the County.

There being no further comment, the hearing was closed.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the application for tax incentives under new or expanding manufacturing industry, property improvements or modernized processes in that Sun Mountain Sports have met all the statutory and policy criteria that the Board of County Commissioners have set. The motion passed on a vote of 2-0.

Janet Stevens asked the representatives of Sun Mountain to mail a copy of the OSHA report to the Board when they receive it.

RESOLUTION NO. 91-103

The Board of County Commissioners signed Resolution No. 91-103, a resolution approving the application of Sun Mountain Sports for Tax Incentives for new and expanding industry under Resolution No. 87-080.

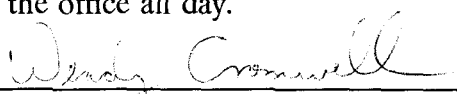
There being no further business to come before the Board, the meeting was adjourned at 1:50 p.m.

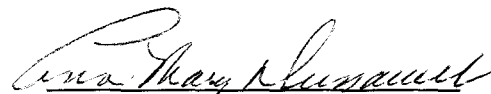
NOVEMBER 28, 1991

The Courthouse was closed for the Thanksgiving Day Holiday.

NOVEMBER 29, 1991

The Board of County Commissioners did not meet in regular session as the Commissioners were out of the office all day.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

DECEMBER 2, 1991

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. 91-104

The Board of County Commissioners signed Resolution No. 91-104, a resolution authorizing participation in the State Board of Investments Intermediate Term Capital Program for the capital purchase of seven vehicles with related equipment for the Sheriff's Department for a total amount of \$119,815.00, as per the terms set forth.

Other items included:

The Commissioners denied a request from Milt Datsopoulos to waive penalty and interest on the Von Der Ruhr delinquent property tax issue.

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

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DECEMBER 3, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was in Polson attending a Special Meeting of the Mental Health Board.

Monthly Report

Chair Dussault examined, approved and ordered filed the monthly reconciliation reports for Justices of the Peace, David K. Clark and Michael D. Morris, for the month ending November 29th, 1991.

DAILY ADMINISTRATIVE MEETING

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

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and a Warranty Deed from Missoula County to D. Albert and Karen R. Burgan, purchasers of the premises described as Lot 37 of Grantland #13, a platted subdivision in Missoula County, Montana. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and a Warranty Deed from Missoula County to P. David Edgell, purchaser of the premises described as Lot 9 of Grantland #12, a platted subdivision in Missoula County, Montana. The documents were returned to Jim Dopp, Operations Officer, for further handling.

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

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DECEMBER 4, 1991

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

Audit List

Commissioners Dussault and Stevens signed the Audit List, dated December 3, 1991, pages 4-24, with a grand total of \$64,184.89. 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 4, 1991 (cont.)Agreement to Sell and Purchase

Chair Dussault signed an Agreement to Sell and Purchase between Missoula County and P. David Edgell for Lot 44, Grantland #13, as per the terms set forth, for a total purchase price of \$18,900.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Change in Lease Agreement

The Board of County Commissioners initialed a change in the Lease Agreement between Missoula County and the Montana Department of Social and Rehabilitation Services for the lease of 8240 square feet on the main floor of the Missoula County Health and Human Services Building located at 301 West Alder, changing the term of the lease from three years to one year, with the lease now ending June 30, 1992. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Agreement for Provision of Professional Security Services

The Board of County Commissioners signed an Agreement for Provision of Professional Security Services between the Missoula County Sheriff's Department and Costco Wholesale for the purpose of providing traffic control to facilitate public access and egress during specified peak periods at the Costco facility, replacing the last Agreement with Costco signed on November 21, 1991, as per the items and terms set forth. The Agreement was returned to Mike McMeekin in the Sheriff's Department for further signatures and handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Mindy Oppen, an independent contractor, for the purpose of providing primary health care as a physician assistant in the Health Department, as per the duties listed and the terms set forth, beginning November 11, 1991, to work at least two days per week, with payment at the rate of \$14.00 per hour plus other approved costs as listed in the contract.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1991, between Missoula City-County Health Department and Child Care Resources for the purpose of providing professional services related to providing a child care health program to identify and solve health problems which are unique to children and which may be compounded by grouping young children together, as per the terms set forth, commencing July 1, 1991, and ending June 30, 1992, for a total amount of \$7,470.00.

Other items included:

The Commissioners made the following board appointments:

- 1) Shirley Simonson was reappointed to a three-year term on the City-County Library Board through December 31, 1994;
- 2) JoAnne Stewart was reappointed to a three-year term on the Lolo Mosquito Control Board through December 31, 1994;
- 3) Randle White, Douglas Campbell, and Bill Potts were reappointed to three-year terms on the Missoula Aging Services Governing Board through December 31, 1994;
- 4) Ginny Cass was reappointed to a three-year term on the Missoula Planning Board through December 31, 1994;
- 5) William Gilman and Jerry Ford were reappointed to two-year terms on the Missoula County Zoning Board of Adjustment through December 31, 1993;
- 6) James P. Olivarez, Larry Bradshaw, Steven Hayes, and Marguerite Munsche were reappointed to three-year terms on the Weed Control Board through December 31, 1994; and

DECEMBER 4, 1991 (cont.)

- 7) Clarence Hamilton was reappointed to a three-year term as an alternate member of the Weed Control Board through December 31, 1994.

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

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present were Commissioners Barbara Evans and Janet Stevens.

HEARING: Proposed Amendments to Resolution No. 76-113 to Revise and Enact New Land Use Fees for Services Rendered in Missoula County by the Office of Community Development

Mike Kress, Office of Community Development Director, explained that in April, 1991, under the direction of the Planning Policy Committee, the OCD and the County Auditor prepared an analysis to establish cost recovery levels for the OCD. The County Auditor found that the OCD recovered 22% of the costs associated with preparing Board of Adjustment and Design Review Board cases, rezonings, and other regulatory procedures. The Planning Policy Committee directed the OCD to draft a new fee schedule to reflect a more balanced cost recovery rate. After meetings between the OCD, the development community, the Chamber of Commerce and the Missoula Builders Association, the OCD recommended at first a 75% cost recovery scenario; this was rejected. The OCD then recommended a 50% cost recovery scenario. This proposal gained the support of the OCD, the development community and the Planning Policy Committee. The Planning Policy Committee recommended that the proposed fee schedule begin the public hearing process. On or about October 28, 1991 the Missoula City Council passed an ordinance to Generally Revise and Enact New Land Use Fees. A resolution to Generally Revise and Enact New land Use Fees currently sits before the Missoula County Commissioners.

The Office of Community Development staff recommends that the Resolution to Generally Revise and Enact New Land Use Fees be adopted.

Ann Mary Dussault opened the hearing to public comment.

David Owen, representing Board of Directors of the Chamber of Commerce, expressed his support for the fee revisions and asked that the Commissioners support them as well.

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

Janet Stevens moved and Barbara Evans seconded the motion to adopt the resolution to generally revise and enact new land use fees for services rendered. The new fees will go into effect January 1, 1992. Motion carried on a vote of 3-0.

CONTINUATION OF HEARING & DECISION ON: PUD Zoning Request & Subdivision Proposal (John Diddel) - O'Brien Creek Meadow

Phillip Maechling, Office of Community Development, explained that John Diddel has submitted a rezoning request, preliminary plat, and master plan for a Planned Unit Development on 79.8 acres located along O'Brien Creek, just south and west of the intersection of Big Flat, O'Brien Creek, Blue Mountain, and River Pines Roads. The PUD would consist of a single family subdivision of 75 lots, to be developed in three phases over a total period of six years. The PUD rezoning proposal contains a request for 25 density bonuses, since the present zoning of the subject property allows only 50 homesites. As part of this PUD, the applicant proposes to construct a community water system; individual septic systems would be installed; the approach to the subdivision off O'Brien Creek Road would be paved, as well as the interior roadways of the development; a bridge spanning O'Brien Creek would be constructed; and one lot would be reserved for a group home site. 22.3 acres of common area would be provided, along with approximately 13 acres of additional public open space on steep hillsides and approximately 6 acres of private lotted area assigned a "no improvement" easement.

Contained within the developer's proposal is a reference to a protective covenant that is being applied to a nearby 47-acre riverfront parcel (known as Parcel "B"). The covenant is apparently an agreement

DECEMBER 4, 1991 (cont.)

between William Maclay and John Diddel, whereby development of the parcel would be limited to seven dwelling units, and whereby thirty three or more acres of riparian area and floodplain will be excluded from development and managed as conservation lands. This covenant and the other conditions of approval must be completed prior to fling of Phase 1 of O'Brien Creek Meadow.

Phillip Maechling gave the following background:

October 8, 1991 - Missoula Planning Board Public Hearing and Action on O'Brien Creek Meadow. Planning board adopts OCD Staff recommendation to postpone action.

October 23, 1991 - Missoula Board of County Commissioners holds Public Hearing on O'Brien Creek Meadow. Hearing is continued pending resolution of issues and conditions.

October 28, 1991 - Staff, management specialists and Applicant meet to discuss management plan and implementation.

November 6, 1991 - Board, staff and Applicant meet to outline outstanding unresolved issues.

November 13, 1991 - Board, staff and Applicant meet to outline outstanding unresolved issues.

November 20, 1991 - Board, staff and Applicant meet to resolve outstanding unresolved issues, and revised conditions of approval.

November 21, 1991 - Board, staff and Applicant meet to review remaining issues, and revised conditions of approval.

November 25, 1991 - Board, staff and Applicant meet with neighborhood representatives to discuss issues, and revised conditions of approval.

He stated that there are two actions to be taken as follows:

- 1) Action on the Resolution of Intent to Rezone to PUD, with conditions; and
- 2) Action on the Preliminary Plat for Phase I, O'Brien Creek Meadow, in accordance with the conditions which have been negotiated.

Barb Martens, OCD, stated conditions that must be met by the applicant:

1. Sanitary restrictions shall be lifted by State and local health authorities. The developer shall submit a hydro-geologic report, addressing issues such as effects of septic effluent in the community well and possible contamination of surface and ground water. The report shall be approved by State and local health authorities.
2. Grading, drainage, erosional control, street, bridge, and site distance plans shall be approved by the County Surveyor's Office. All roadways shall meet County standards.
3. The developer shall provide a Noxious Weed Management Plan for this subdivision and the Master Plan. This plan shall be subject to the approval of the Weed District Supervisor and the Rural Planning Office.
4. The developer shall develop an open space resource management plan and implementation program for the subdivision and Master Plan, prior to filing of Phase I of O'Brien Creek Meadow. The management plan shall address wildland fire protection, protection and enhancement of wildlife habitat and fisheries, and weed control. Standards for the no-improvement easements shall be included. A mixture of native shrubs and conifers shall be planted within these easements to provide suitable habitat for wildlife. This plan shall be approved by the Board of County Commissioners.
5. As volunteered by the developer, he shall contribute \$35,000 towards the upgrading of Blue Mountain Road at the time that Blue Mountain Road is paved. A Certificate of Deposit shall be established in the County's name and shall be available to the County for a maximum period of ten years. All interest shall accrue to the developer. If the road project is not completed within ten years, the Certificate of Deposit shall revert back to the developer.
6. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

DECEMBER 4, 1991 (cont.)

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of O'Brien Creek and Blue Mountain Roads and may be used in lieu of their signatures on an RSID petition."

7. The developer shall develop a grassy swale storm drainage plan, subject to the approval of the City/County Health Department and the County Surveyor.
8. The wildlife corridor easement, as shown on the Master Plan, shall have an average width of 50 feet.
9. Approach permits shall be applied for by all lot owners that access onto the public right-of-way.
10. The developer shall provide easements for utilities in the appropriate areas.
11. The Covenants shall be revised to include the following information:

Article VIII:

Section 3 - All containers for the storage and disposal of garbage shall be kept indoors and covered in a clean and orderly condition.

Section 5 - Domestic animals can have a negative impact on neighboring wildlife populations. Dogs and cats shall be confined on the property of their owner and shall not be permitted to harass or chase wildlife, or to become a nuisance or annoyance to the neighbors.

Section 7 - Flowers, ornamental shrubs and gardens may be susceptible to damage from wildlife unless properly fenced and protected. the planting of native vegetation is encouraged.

Section 8 - All solid fuel burning devices must be equipped with approved spark arresters and meet the requirements of the Air Pollution Control Board. Barbecue pits shall not be permitted due to potential wildlife/human conflict. All barbecue grills shall be stored indoors, so as not to attract wildlife.

Section 12 - Salt blocks and feeding platforms for deer shall not be allowed on any premises. All carcasses of dead animals shall be removed immediately. Homeowner's are encouraged to review the County's "Living With Wildlife" brochure.

Section 13 - Residents within this subdivision shall follow the County Noxious Weed Control Act and Missoula County's Weed Control Plan.

Section 14 - Driveway approaches shall be paved a minimum of 20 feet.

Section 15 - Rear yard fences shall be open-view.

Section 16 - Provision for tree preservation, to address tree removal for building construction and fuel management only.

12. The type of fire hydrant, final location of the fire hydrants and the reserve water supply shall be approved by the Missoula Rural Fire Department.

13. The developer shall provide an assessment about exposures and fuel hazards for this subdivision, especially in areas where lots merge with timbered areas. Mitigating measures shall be approved by the Missoula Rural Fire Department.

14. An emergency access easement shall be provided on the eastern edge of the Master Plan.

15. The Covenants and Restrictions 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 further that the documents contain the applicable provisions required by these regulations and any other provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

16. The developer shall file Property-owner's Association Articles of Incorporation and By-laws, with proof of filing with the Secretary of State.

Barb Martens explained that the Preliminary Plat approval period shall extend for a period of one year.

DECEMBER 4, 1991 (cont.)

Doris Fischer, OCD, explained that the PUD Master Plan for the entire 79.8 acre site shall be approved, in accordance with the additional zoning conditions outlined as follows:

1. The lands described as Exhibit B shall be managed so as to preserve the riparian zone. Development on these lands shall be limited to seven homesites. One of these homesites may be located within the boundary of the 100-year floodplain, but in accordance with the Missoula County Floodplain Regulations; the disturbed area of this homesite must be located immediately adjacent to the southern boundary of the floodplain, so as to avoid significant intrusion into the floodplain area. There shall be no other development allowed within the floodplain. To secure this condition, a set of land management guidelines shall be formulated in cooperation with the rural Planning Office, the Montana Department of Fish, Wildlife and Parks, and the Missoula County Soil Conservation District. These guidelines shall provide the basis for a legal agreement between the property owner and the Board of County Commissioners. This agreement shall be executed prior to the filing of Phase I of O'Brien Creek Meadow.
2. In the event that the group home project cannot be accomplished, the developer shall devise an alternate means of providing the equivalent public benefit. Such alternative shall represent only a minor amendment to the PUD zone. It shall, however, require the approval of the Board of County Commissioners.
3. The PUD Master Plan for O'Brien Creek Meadow shall be approved for a total of 75 homesites, in accordance with the subdivision and zoning conditions outlined above.

Janet Stevens stated that she would like to see two conditions added to the above list of conditions: 1) limiting the lighting levels; and 2) kenneling of dogs.

Phillip Maechling stated that one idea addressing the lighting issue was limiting the wattage of exterior lighting to 100-200 watts.

Andy Fisher, Eli & Associates, explained that the developers had no plans for street lights; so this would limit the amount of lighting in the subdivision.

Ann Mary Dussault asked Mike Sehestedt, Deputy County Attorney, to explain the appeal process.

Mike Sehestedt explained that if the Board decides that rezoning is appropriate, the adoption of the Resolution of Intention to Rezone would be signed by the Board. This resolution has to be published in the newspaper for two consecutive weeks. The first publication of the resolution starts the clock running on a thirty-day protest period. A protest period is a period of 30 days in which any property owner in a zoning district affected by the zoning change can file with the Board of County Commissioners a written protest or objection to that rezoning. This protest can be accomplished in many different ways; in the form of a petition, letter form, postcard, etc. as long as it is written and signed by the property owner and contains enough information to identify what zoning changes the property owner is objecting to. At the end of the thirty-day protest period, the protests will be checked by the Clerk and Records Office against the last completed freeholders list (property owners of record as of the first of 1991). The Clerk and Records Office will then ascertain how many property owners there are in a particular zoning district that the protests have been received from. They will check to see that the protests have been made by property owners. A count will be taken to see if the number represents 40% of the property owners. This protest is done by property owners and not based on area or amount of property owned. If the motion is defeated by 40% of the homeowners in a given zone, the Board of County Commissioners are without authority to propose another rezoning in the area again for a period of one full year. Should there not be a 40% protest, then following the expiration of the protest period, the Commissioners have the authority, to proceed to rezone the property in accordance with their intention to rezone.

A successful protest of 40% of property owners in any one of the affected zoning districts (there are three (3) zoning districts that are affected by the rezoning), would defeat the change by protest, and the PUD rezoning would fail.

Barbara Evans said that the land area from which the petition signers can originate is only within the 3 zoning districts that the hearing is dealing with, it does not extend past these areas. Attention was drawn to a map of the zoning districts affected.

Ann Mary Dussault discussed information pertaining to the O'Brien Creek and Maclay Bridge/Blue Mountain Road from a draft Infrastructure Plan and Timetable dated December 4, 1991, regarding the

DECEMBER 4, 1991 (cont.)

timetable and RSID's for the paving of these roads. She asked Horace Brown, County Surveyor, to have an area map drawn up indicating the proposed improvements. These two items will be available to the public.

A general discussion ensued relative to the details of the proposed RSID's and who would be affected by them.

Ann Mary Dussault stated that the Infrastructure Plan and Timetable would be attached to the project if it is approved. Copies of the plan will be made available to the public. A map will also be available of the proposed projects.

Ann Mary Dussault opened the hearing to public comment.

Susan Morgan, representing the Cedar Ridge/Lion Creek Homeowners Association, expressed concerns for the infrastructure problems along with concern over the closing of Maclay Bridge. Traffic would be routed to Highway 93 and would create problems. She proposed that either 1) the Board retain the present zoning of 50 homes; or 2) construct a traffic light at the intersection of Blue Mountain Road and Highway 93.

Charles Stevenson asked the Board to explain their justification of increased densities for this subdivision and why it would be in the public interest to do so.

Ann Mary Dussault said that the Commissioners individually would make comments, if they chose to do so before the vote was taken at the end of the hearing.

Harold Ort spoke in support of implementing a neighborhood plan for this area.

Ann Mary Dussault requested that the following letter received by the Board of County Commissioners from Alice Austin be included in the public record. It reads as follows:

"Dear Commissioners:

It is my understanding that, on November 25, 1991, it was made clear to a number of the Blue Mountain/O'Brien Creek Homeowners you would grant Mr. Diddel's request for rezoning for O'Brien Creek Meadows. I hope there is some possibility for reconsideration.

The Homeowners do not ask and have not asked for a "no development" position. Here is the wording of the petition signed by 500 people:

"We, the undersigned hereby petition the Missoula County Commissioners to reject the proposed O'Brien Creek Meadow rezoning as a Planned Unit Development. We are not opposed to responsible development of the area or to Planned Unit Development, but we are opposed to this rezoning request for many reasons, including the following:

1. The proposed homesite density far exceeds the site densities of the surrounding areas and does not fit the established rural character of the area.
2. The request, if granted, would set high density rezoning precedent that would threaten other undeveloped but rurally zoned land in the surrounding areas.
3. Planned Unit Development should be used primarily to create, preserve and increase the site density. The increased site density in this request outweighs the enhancements and does little to preserve the total environment.
4. Development under present zoning would have significant impact on existing road, bridge, elementary school and wildlife habitat problems. Increasing the zoning density would impose even heavier impacts on these problems.

Having development consistent with current zoning is far more acceptable than the density being asked for by Mr. Diddel. The recommendations of the Office of Community Development are important and do, I trust, receive your serious consideration.

Your task in making this decision is certainly not an easy one. It seems that the choice is between giving Mr. Diddel an opportunity to make a considerable sum of money and supporting the wishes of a large number of County homeowners and the Target Range School District.

Sincerely,
Alice H. Austin"

DECEMBER 4, 1991 (cont.)

Gary Botchek expressed concern over the zoning changes. He said that zoning is the only protection a property owner has when they purchase the property. He asked what protection is offered to owners of land if the zoning can be changed.

Penny Oncken was concerned about the influence on the wild animals that a subdivision of this size would have.

Bruce Fowler asked about the possibility of addressing in Office of Community Development conditions, the issue of dust abatement during the construction period.

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

Barbara Evans explained her position on this issue by restating zoning allowance figures for the subject properties. She explained that the PUD process is designed to gain some benefits to the community that otherwise would not be given to the community and in return for that, the developer is expected to give significant things back to the community in return for those density benefits. The Board and OCD staff over the past few weeks have required many things of the developers that the residents would not get otherwise. In her opinion, if this proposal is stopped, depending who buys it, who has the money, and what they want to do with it, the developer will develop the land into a 50-unit subdivision on the top with either 22 or 48-units on the bottom site. She said that the Board shared the residents concern for the wildlife in the area. The riparian area is very vital to the Big Flat in helping to keep the character that the residents chose to live in and desire in this area. The Board shares this feeling and doesn't want this area to be turned into a 22 or 48 lot subdivision, thus losing the habitat for the wildlife.

The majority of the Big Flat has been divided through the certificate of survey process. This process does not give the Board or the City Council the right to review whatever is done on land 20 acres or more. Each person is allowed to have one land split per year unless it is clear to the governing body that the developer is attempting to evade the subdivision process. This process ends up with land being split from 20 acres down to 10 to 5 to 1 by a succession of different land owners. The residents of this area do not want the excessive density in the area, but if this proposal is denied by the Board, the building process will not stop, the certificate of survey will continue and the same density, if not more will be in the subject area. In looking at all the concerns, the major concerns of the residents of the area are dust, road conditions, the curves in the road, etc. If this land is allowed to be split through the certificate of survey process, there will be no contributions by the developers to the infrastructure. It is not fair for the people of the rest of the County to have to use tax money to fix the roads that are split by certificates of survey. These are improvements that should be provided by developers of the property. The residents have contributed through regular tax dollars to improvements. However, the County does not have the money to improve everything it would like to improve on that road. The \$35,000 that Mr. Diddel has offered to contribute toward the road is a real benefit to the residents. It will reduce the cost of an RSID, thereby reducing the cost to the residents of the area.

Janet Stevens stated that as the Board looked at the public comment, they incorporated these comments into the conditions from OCD. She stated that to say the Board hasn't listened to public comment would be short-sighted; the Board has and is listening to the concerns of the residents in this area. The other major concern of the residents are the roads. The County has a plan developed with over \$550,000 in contributions from local government, the Forest Service as well as participation from the developer to try to help with the road infrastructure problem, as well as the development itself by waiving its' right to protest any RSID's. This will add a number of dollars to the project the residents will not have to pay to upgrade the road so that it is safe not only for the residents, but for any other people who move out there in the future.

She said the area the developer has set aside as open space as well as the non-improvement areas is a benefit because it does address some of the issue relative to wildlife movement. She would like to see everyone get together to develop those conservation easements in this entire area which is the neighborhood plan that has been spoken about.

Barbara Evans added that if the project is denied and the developers decide to build 50 homes on the top and 22 or 48 on the bottom property, the residents will lose the protection of the riparian area. The Board has control over where the units will be built on the lower portion and will limit it to 7 units. The \$35,000 contribution, a community water system that would aid in fire protection, 75 RSID waivers to pave Blue mountain Road and 25 waivers to pave O'Brien Creek Road, the land and construction of a group home, a wildlife management plan, and 30-40% open space; all of these benefits and more would be lost by the residents if this project fails.

DECEMBER 4, 1991 (cont.)

Janet Stevens felt that one of things a neighborhood plan and particularly an open space and conservation plan would help with in the future is for the residents to have an input on other things that may come into the area.

Barbara Evans moved and Janet Stevens seconded the motion to approve the resolution of intent to rezone O'Brien Creek Meadows as submitted by John Diddel to PUD; contingent upon the passage of the resolution to rezone following the protest period of thirty (30) days. The motion carried on a vote of 3-0.

Resolution No. 91-105

The Board of County Commissioners signed Resolution No. 91-105, a resolution pertaining to intent to rezone 79.8 acres of land located in the S. 1/2 of Section 27, and the N. 1/2 of Section 34, all being in Township 13 North, Range 20 West, and legally described in Attachment A, from a combination of "C-A1" (open and resource lands), "C-A3" (residential), and "C-RR1" (residential), to "PUD" (Planned Unit Development) with the conditions outlined in Attachment B to the Resolution.

Barbara Evans moved and Janet Stevens seconded the motion to approve the preliminary plat for Phase I, O'Brien Creek Meadows contingent upon rezoning approval and in accordance with the conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities. The developer shall submit a hydro-geologic report, addressing issues such as effects of septic effluent in the community well and possible contamination of surface and ground water. The report shall be approved by State and local health authorities.
2. Grading, drainage, erosional control, street, bridge, and site distance plans shall be approved by the County Surveyor's Office. All roadways shall meet County standards.
3. The developer shall provide a Noxious Weed Management Plan for this subdivision and the Master Plan. This plan shall be subject to the approval of the Weed District Supervisor and the Rural Planning Office.
4. The developer shall develop an open space resource management plan and implementation program for the subdivision and Master Plan, prior to filing of Phase I of O'Brien Creek Meadow. The management plan shall address wildland fire protection, protection and enhancement of wildlife habitat and fisheries, and weed control. Standards for the no-improvement easements shall be included. A mixture of native shrubs and conifers shall be planted within these easements to provide suitable habitat for wildlife. This plan shall be approved by the Board of County Commissioners.
5. As volunteered by the developer, he shall contribute \$35,000 towards the upgrading of Blue Mountain Road at the time that Blue Mountain Road is paved. A Certificate of Deposit shall be established in the County's name and shall be available to the County for a maximum period of ten years. All interest shall accrue to the developer. If the road project is not completed within ten years, the Certificate of Deposit shall revert back to the developer.
6. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of O'Brien Creek and Blue Mountain Roads and may be used in lieu of their signatures on an RSID petition."
7. The developer shall develop a grassy swale storm drainage plan, subject to the approval of the City/County Health Department and the County Surveyor.
8. The wildlife corridor easement, as shown on the Master Plan, shall have a minimum width of 50 feet.
9. Approach permits shall be applied for by all lot owners that access onto the public right-of-way.
10. The developer shall provide easements for utilities in the appropriate areas.
11. The Covenants shall be revised to include the following information:

DECEMBER 4, 1991 (cont.)Article VIII:

Section 3 - All containers for the storage and disposal of garbage shall be kept indoors and covered in a clean and orderly condition.

Section 5 - Domestic animals can have a negative impact on neighboring wildlife populations. Dogs and cats shall be confined on the property of their owner and shall not be permitted to harass or chase wildlife, or to become a nuisance or annoyance to the neighbors.

Section 7 - Flowers, ornamental shrubs and gardens may be susceptible to damage from wildlife unless properly fenced and protected. the planting of native vegetation is encouraged.

Section 8 - All solid fuel burning devices must be equipped with approved spark arresters and meet the requirements of the Air Pollution Control Board. Barbecue pits shall not be permitted due to potential wildlife/human conflict. All barbecue grills shall be stored indoors, so as not to attract wildlife.

Section 12 - Salt blocks and feeding platforms for deer shall not be allowed on any premises. All carcasses of dead animals shall be removed immediately. Homeowner's are encouraged to review the County's "Living With Wildlife" brochure.

Section 13 - Residents within this subdivision shall follow the County Noxious Weed Control Act and Missoula County's Weed Control Plan.

Section 14 - Driveway approaches shall be paved a minimum of 20 feet.

Section 15 - Rear yard fences shall be open-view.

Section 16 - Provision for tree preservation, to address tree removal for building construction and fuel management only.

12. The type of fire hydrant, final location of the fire hydrants and the reserve water supply shall be approved by the Missoula Rural Fire Department.

13. The developer shall provide an assessment about exposures and fuel hazards for this subdivision, especially in areas where lots merge with timbered areas. Mitigating measures shall be approved by the Missoula Rural Fire Department.

14. An emergency access easement shall be provided on the eastern edge of the Master Plan.

15. The Covenants and Restrictions 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 further that the documents contain the applicable provisions required by these regulations and any other provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

16. The developer shall file Property-owner's Association Articles of Incorporation and By-laws, with proof of filing with the Secretary of State.

Three (3) additional conditions were added by the Board of County Commissioners and are described as:

1. Limitation on lighting within the subdivision.
2. Adding the provision of kenneling pets.
3. Including dust abatement measures during the project construction.

Additional zoning conditions are outlined as follows:

1. The lands described as Exhibit B shall be managed so as to preserve the riparian zone. Development on these lands shall be limited to seven homesites. One of these homesites may be located within the boundary of the 100-year floodplain, but in accordance with the Missoula County Floodplain Regulations; the disturbed area of this homesite must be located immediately adjacent to the southern boundary of the floodplain, so as to avoid significant intrusion into the floodplain area. There shall be no other development

DECEMBER 4, 1991 (cont.)

allowed within the floodplain. To secure this condition, a set of land management guidelines shall be formulated in cooperation with the rural Planning Office, the Montana Department of Fish, Wildlife and Parks, and the Missoula County Soil Conservation District. These guidelines shall provide the basis for a legal agreement between the property owner and the Board of County Commissioners. This agreement shall be executed prior to the filing of Phase I of O'Brien Creek Meadow.

2. In the event that the group home project cannot be accomplished, the developer shall devise an alternate means of providing the equivalent public benefit. Such alternative shall represent only a minor amendment to the PUD zone. It shall, however, require the approval of the Board of County Commissioners.
3. The PUD Master Plan for O'Brien Creek Meadow shall be approved for a total of 75 homesites, in accordance with the subdivision and zoning conditions outlined above.

The motion carried on a vote of 3-0.

Janet Stevens stated that the draft infrastructure plan and timetable is contingent upon the subdivision PUD going into effect.

HEARING: (Certificate of Survey) Use of Occasional Sale (Peterson)

Marnie McClain, Deputy County Attorney, explained that Nick Kaufman of Sorenson & Company, has submitted a request for an occasional sale exemption on behalf of Stan Peterson. Mr. Peterson has an approximately 5-acre tract which he wishes to divide for sale to Ken Allen. Ken Allen plans to do a 5 lot summary subdivision. If Mr. Allen is able to market the 5 lots to his satisfaction, he plans to purchase the remainder and do a second 5 lot subdivision.

This parcel has a lengthy history of subdivisions, as shown on the affidavit submitted by Mr. Peterson. Mr. Peterson has previously used the gift exemption in 1979.

Ann Mary Dussault opened the hearing to public comment.

Nick Kaufman explained in detail the history of the parcel.

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

Barbara Evans moved and Janet Stevens seconded the motion to approve the request for an occasional sale exemption by Stan Peterson, the Board finding no attempt to evade the subdivision law. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the meeting was recessed at 3:10 p.m.

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DECEMBER 5, 1991

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

DAILY ADMINISTRATIVE MEETING

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

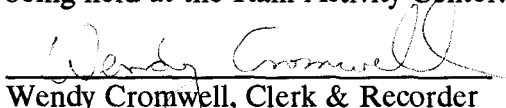
After discussing and reviewing the information provided, the Commissioners notified the County Treasurer that the Leroy Nothnagel property, Tract 4 of COS 3757, had been erroneously assessed as a building site and directed the Treasurer to abate Tax Bill 91024600 and to issue a new tax bill based on an appraised value of \$1,000 per acre for this property.

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

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DECEMBER 6, 1991

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Stevens was out of the office all forenoon. In the morning, Commissioner Dussault gave a welcome at the Rocky Mountain Rendezvous for the MT Super Skippers being held at the Ram Activity Center.


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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DECEMBER 9, 1991

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

Monthly Report

Chair Dussault examined, approved and ordered filed the monthly report for Sheriff Doug Chase, showing the items of fees and other collections on account of civil business in Missoula County for month ending November 29, 1991.

DAILY ADMINISTRATIVE MEETING

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

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and a Warranty Deed from Missoula County to Jack I. and Billie L. Nelson for the premises described as Lot 48 in Hillview Heights #7, a platted subdivision in the City of Missoula, Missoula County, Montana, according to the official recorded plat thereof, subject to the items set forth on the Deed. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Resolution No. 91-106

The Board of County Commissioners signed Resolution No. 91-106, a resolution to generally revise and enact new land use fees for services rendered by the Missoula Office of Community Development, as per the schedule of fees attached to the Resolution.

Extension Letter

The Board of County Commissioners signed a letter to Andy Fisher of Eli & Associates approving a three-month filing extension to the deadline for the Silverhill Estates summary plat, making the new filing deadline March 6, 1992.

Other items included:

The Commissioners appointed Jerry Ford and Helen Cipoloto to three-year terms on the newly created Sales Assessment Advisory Board. Other applicants will be interviewed, and an organizational meeting will be held in January of 1992.

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

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DECEMBER 10, 1991

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Dussault left late in the forenoon for Helena to attend a meeting of the MT Tax Reform Coalition in the afternoon.

Audit List

The Board of County Commissioners signed the Audit List, dated December 9, 1991, pages 4-27, with a grand total of \$79,701.13. The Audit List was returned to the Accounting Office.

DECEMBER 10, 1991 (cont.)Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Annette M. Dinesen as principal for warrant #30022, dated November 6, 1991, on the Missoula County Trust Fund in the amount of \$325.00 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 NJ Taylor, 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 Art School, as per the terms set forth, commencing October 1, 1991, and ending June 30, 1992, with payment not to exceed \$10.00 per hour.

Resolution No. 91-107

The Board of County Commissioners signed Resolution No. 91-107, resolving that the Missoula Title III Plan prepared by the local emergency planning committee (LEPC) be adopted for the purpose of administering community right-to-know program, mitigate the threat posed to public health, safety and the environment by chemical releases and otherwise establish response procedures for hazardous material incidents.

Other items included:

The Commissioners made the following Board appointments:

- 1) Anna Fendler was appointed to a three-year term on the Missoula Aging Services Governing Board through December 31, 1994; and
- 2) Gary Boe was appointed as a member of the Missoula County Airport Authority for a five-year term through December 31, 1997.

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

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DECEMBER 11, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was in Billings December 11th and 12th attending the MACo Elected Officials Meeting.

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 #23 (10/27/91 through 11/09/91), with a total Missoula County Payroll of \$382,954.92. 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 (11/10/91 through 11/23/91), with a total Missoula County Payroll of \$382,743.93. The Transmittal Sheet was returned to the Auditor's Office.

DECEMBER 11, 1991 (cont.)Warranty Deed

The Board of County Commissioners signed a Warranty Deed from Missoula County to Marty Walters for the premises described as Lot 19 of Hillview Heights #7, amended plat of lots 6 and 19, in the City of Missoula, according to the official plat thereof of record in Book 123 of Plats at Page 56, records of Missoula County, subject to the items listed on the Deed. The Deed was returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Peter Bouma for Lot 4, Orchard Acres - SUID #1143309 (the lot at the corner of South Hills Drive and Country Club Lane), as per the terms set forth and contingent upon the items set forth, for a total purchase price of \$16,000.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Mark G. Muir for Lot 4, Michelle Addition, SUID #5866068 (bare land - Norman's Lane), as per the terms set forth, for a total purchase price of \$12,600.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Lee C. Gordon for Lots 6, 7, 9, and 14, Block 8 Hillview Heights #6, as per the terms set forth, for a total purchase price of \$28,000.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Arnold C. James and Laurie Ann Johnson for Lot 5, Michelle Addition (bare land - Norman's Lane), as per the terms set forth and contingent upon the items set forth, for a total purchase price of \$12,600.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1991, between Missoula County and Missoula Life Skills Pre-Release Center for the purpose of providing a community service program, as per the terms set forth, for a total amount of \$4,500.00, for a term of approximately one year through June 30, 1992.

Certification of Acceptance for Maintenance

Chair Dussault signed a Certification of Acceptance for County Maintenance of Jolinda Court located in Section 12, T. 12 N., R. 20 W., a total of .060 miles. The Certification was returned to Bob Holm in the Surveyor's Office.

Other items included:

The Commissioners concurred with a recommendation from County Surveyor, Horace Brown, that his staff be instructed to pursue a 30-foot easement from the school parallel with and contiguous to the existing 30-foot right-of-way for the Bauman Addition Amended Plat of Lot 6, Block 2, Allomont Orchards Subdivision.

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

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:35 p.m. by Chair Ann Mary Dussault. Also present was Commissioner Barbara Evans.

DECEMBER 11, 1991 (cont.)HEARING: (COS) Revocation of Agricultural Exemption (Dorothy Wood)

Marnie McClain, Deputy County Attorney, explained that Dorothy Wood submitted a request to revoke an agricultural exemption presently imposed on Parcel A of COS 2497. The COS was filed in October 1981, but she has been unable to locate a resolution to that effect or an entry in the Commissioners' journals which identify when the Board of County Commissioners granted the exemption. According to a letter submitted by Dorothy L. Wood, she would like to build a summer cabin on this site.

According to the records kept by the Missoula County Surveyors office, Dorothy L. Wood used an occasional sale exemption in 1977.

Ann Mary Dussault opened the hearing to public comment.

Dorothy Wood stated that her family wanted to build a cabin for recreational purposes on the property with a well and septic. The property is located at the end of Big Flat Road up Dry Gulch. This property is the burial site of her husband.

Marnie McClain explained how the Attorneys Office has handled requests to revoke an agricultural exemption in the past. The applicant will be credited with another exemption and a draft resolution will be drawn up approving the revocation. This becomes effective upon the filing of the resolution. The Clerk and Records Office is then directed to cross-reference the COS to the resolution.

Ann Mary Dussault stated that if the Board acts on the revocation today, the Attorney's Office would draw up a resolution for the Board's signature. This resolution would be filed with the Clerk and Recorder's office.

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 request to revoke the Agricultural exemption on Parcel A of Certificate of Survey No. 2497. The motion carried on a vote of 2-0.

HEARING: (COS) Revocation of Agricultural Exemption (Tag)

Marnie McClain explained that Richard Tag submitted a request to revoke an agricultural exemption presently imposed on COS 862. The COS was filed in 1976. The owners at that time were Paul Hanson, Natalie Hanson and Ruth Hanson. She did not find an entry in the index to the Commissioners' journals concerning the granting of this exemption.

According to the records kept by the Missoula County Surveyor's office, a small portion of Mr. Tag's property shown in COS 862 was acquired by the County in 1984 for the right of way for portions of Butler Creek Road. Otherwise, he has no history for use of exemptions to the Subdivision and Platting Act.

Ann Mary Dussault opened the meeting to public comment.

Richard Tag explained that he would like to proceed with plans to build a residence on this property. He bought the initial four acres that he presently lives on in 1968 and purchased an additional eight acres adjacent to the property in 1975. Mr. Tag's father-in-law has pastured farm animals on this ground.

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 request to revoke the Agricultural exemption on Certificate of Survey 862. The motion carried on a vote of 2-0.

Marnie McClain explained that the procedure for an agricultural exemption would be to draw up a resolution that will credit Mr. Tag with an occasional sale and then direct the Clerk and Recorder's office to cross-reference that to the resolution.

HEARING: Use of Occasional Sale (Straight)

Marnie McClain explained that Andy Fisher of Eli and Associates has submitted an affidavit on behalf of Jim Straight for an occasional sale exemption for Tract B of COS 2241. This parcel has previously

DECEMBER 11, 1991 (cont.)

been divided using an occasional sale exemption in 1980 by Charlie Hand. According to Mr. Straight's application, he and his wife own both Tracts A and B of COS 2241.

According to the records kept by the Missoula County Surveyor's office, Mr. and Mrs. Straight used an occasional sale exemption once before, in 1979.

Ann Mary Dussault opened the hearing to public comment.

Andy Fisher provided history relative to the past ownership of the subject property. An existing trailer that belongs to family members is located on southern portion of the property. The northern portion, the piece the Straights' are planning to sell, consists of 3.26 acres. He feels that there is no attempt to evade the Subdivision Act, and asked the Board to approve the request.

Ann Mary Dussault explained to Mr. Fisher that he needed to advise his clients that any further split of the remainder of Tract B would need to go through the subdivision review process, possibly realigning the boundaries at that time.

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

Barbara Evans moved and Ann Mary Dussault seconded the motion to approve the request for an occasional sale exemption for Tract B of Certificate of Survey No. 41 in that it does not appear to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

Public Comment

Bill Smith of 7355 Meadow Drive in Missoula, representing the residents in the area near the proposed Ross Electric development site, submitted the following petition signed by residents of the area:

We, the undersigned, as residents in the immediate vicinity of the proposed Ross Electric Transformers Rebuilding facility, strongly oppose this operation being located in our area. Further, due to the sensitive nature of Missoula's airshed, we urge the Missoula County Commissioners and all other representatives of the community to do all possible in their power to insure that this facility is not allowed to be located in the Missoula Valley.

He stated the group he represented is a "grass roots" group of people who are not in association with any organization. It was out of concern for the well-being of the community and their families that the residents of the area have joined together in opposition to this facility.

He had questions relative to Ross Electric's business dealings in the Missoula Valley. He stated that the residents were very afraid that if Ross Electric is allowed to build where they have begun building, not only their lives will be effected, but their land values, Missoula County in general, as well as the reputation of Missoula County. He wondered why Ross had been allowed to continue building the structure.

Mike Sehestedt, Deputy County Attorney, explained the process that had been followed up until this point. The building permit is obtained when the proposed structure meets all the requirements, the uniform building code and also complies with any other applicable local ordinances. One of those ordinances is zoning. There was a problem with zoning compliance in this case. The building inspector isn't answerable to County government, but is answerable to the City. The County asked the Mayor to issue a stop work order based on the zoning non-compliance; this was accomplished quickly. The County then asked for a memo from the City authorizing the County to start giving the building inspector some direction. The City sent back the authorization, basically saying that any safety concern with respect to the currently constructed building should be immediately dealt with. The general contractor brought in some information and letters relative to the building. This information said the building as it stood with just the framework not completed and not tied together, is apparently unstable and unsafe. The County authorized the building inspector to exercise his discretion to let Ross Electric stabilize the building against elemental damage and safety hazard. Further building is stopped until the zoning issue is resolved. The general contractor indicated it would take him four days to stabilize the building.

Ann Mary Dussault told the petitioners that the Board appreciated what they are doing. Based on reports from the residents in the area regarding the zoning, the Board contacted the County Attorneys office, who looked into the matter. This resulted in the issuance of the stop work order.

DECEMBER 11, 1991 (cont.)

Bill Smith stated the group he represented were amazed at the swiftness with which the County, the City, Ellen Leahy's office, and the community including the media, responded once the information became known this problem existed. He expressed concerns relative to the continued building.

Mike Sehestedt stated the County would only authorize work that is necessary to protect the County and the taxpayers from any sort of liability exposure. Character and past history are relevant to the permit process. Whatever the past history and character of this company is a determination of whether or not the permit should be issued because it is relevant to the question of whether the company could be expected to comply with the air pollution regulations. In addition, there are a number of other issues about this operation that need to be resolved. The County has zoning and the local air pollution issues. The State has the incinerator issue and the question of whether or not this is hazardous waste being transported into the State in violation of a moratorium in doing that. Other issues may come forward as time goes on. At this point, they are at the initial application stage for getting a permit.

Christa Barnabee, resident of the area, expressed opposition to Ross Electric as well as questions concerning the zoning issue. She asked if Ross Electric could rezone the area.

Michael Sehestedt said that Ross Electric would have to resolve the issue of zoning before the operation could go up on the site. There is potential liability to the County because a permit was issued. However, the County Attorneys advice was to proceed with the air pollution review.

Barbara Evans said that the Airport Authority at the request of the Board has asked Mr. Hascamp in Helena with the State Bureau of Aeronautics to look at whether or not they would need some sort of intervention in this sort of thing.

She further stated the whole office agrees on the point that no one wants anything in the valley that will further degrade the air or the water. As Ellen Leahy said, "We are a nation of laws and we must follow the law." Therefore, we will do that which the law requires. It is a rigorous process Ross Electric will have to go through. She said that even though the Board couldn't promise anything, it would probably turn out as the residents wanted.

Bob Barnabee said that Ross erected the framework quite quickly, so in less than four days they could dismantle the frame to the foundation, laying on the ground, making it safe. He wanted to know if this idea would be taken into consideration.

Ann Mary Dussault said the Board would ask the County Attorney's office in their negotiations with the City over this matter to take this idea into consideration. The County has the authority to stop work. However, it may not have the authority to reverse work.

Mike Sehestedt stated the County wants completed what is required to keep the structure from blowing down and to keep the footings from cracking from the freeze. After this is accomplished, Ross Electric is prohibited from further construction.

Ann Mary Dussault closed the meeting to public comment and asked that further conversation and questions be directed to Mike Sehestedt.

There being no further business to come before the Board, the meeting was recessed at 2:10 p.m.

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DECEMBER 12, 1991

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. 91-108

The Board of County Commissioners signed Resolution No. 91-108, a resolution accepting an easement from Calvin C. and Betty M. Touchette for public road and all other public purposes as shown on Certificate of Survey No. 4018 (Touchette Lane), located in a portion of the E 1/2 of Section 29, T. 15 N., R. 21 W., P.M.M., Missoula County.

DECEMBER 12, 1991 (cont.)

Agreement

Chair Dussault signed an Agreement, dated November 25, 1991, between Missoula County and the Missoula Vocational Technical Center, whereby the students at the Center, as a part of their training program, will construct roadway for the Sheriff's Target Range Project, as per the terms and conditions set forth in the Agreement.

Resolution No. 91-109

The Board of County Commissioners signed Resolution NO. 91-109, a resolution assigning Missoula County's interest in a certain Lease and Option Agreement with Sunlight Development Corporation dated December 20, 1990, to the Missoula County Airport Area Industrial Tax Increment District for the purpose of facilitating that body's role of providing the necessary infrastructure to support industrial development within the District.

Resolution No. 91-110

The Board of County Commissioners signed Resolution No. 91-110, a resolution assigning Missoula County's interest in a certain Easement in Gross received from Sunlight Development Corporation to obtain the necessary right of way for roads, dated December 20, 1990, to the Missoula County Airport Area Industrial Tax Increment District to facilitate that body's role of providing the necessary infrastructure to support industrial development within the District.

Floodplain Insurance Program Recertification

Chair Dussault signed the Recertification Form certifying that Missoula County is continuing to implement the activities credited under the Community Rating System as described in the original application dated December 14, 1990, and most recently modified by the recertification dated December 10, 1991, resulting in a 5% reduction for all Missoula County residents who need floodplain insurance. The form was returned to Mike Kress in the Office of Community Development for further handling.

Other items included:

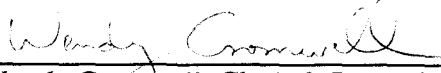
The Commissioners approved a request from Sam Yewusiak, Manager of the Western Montana Fair, whereby the Fair Commission wishes to trade two of its present vehicles for one 4-wheel drive truck, as per the descriptions in Sam Yewusiak's Memorandum dated November 26, 1991.

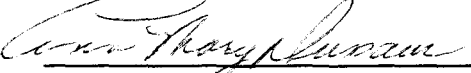
The minutes of the daily administrative meeting are on file in the Commissioners Office.

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DECEMBER 13, 1991

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


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

* * * * *

DECEMBER 16, 1991

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 District Court, Kathleen Breuer, showing fees and collections made in Missoula County, for month ending November 20, 1991.

DECEMBER 16, 1991 (cont.)

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Mark J. Hueffed as principal for warrant #33703, dated November 1, 1991, on the MUTD Payroll Fund in the amount of \$87.72 now unable to be found.

Indemnity Bond

Chair Dussault examined, approved and ordered filed an Indemnity Bond naming Cornelia C. Whittaker as principal for warrant #32765, dated May 16, 1991, on the MUTD Payroll Fund in the amount of \$265.60 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

The Commissioners appointed County Surveyor Horace Brown as a member of the County Park Board to fill the unexpired term of Bob Holm through May 6, 1994. The minutes of the daily administrative meeting are on file in the Commissioners Office.

* * * * *

DECEMBER 17, 1991

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. 91-111

The Board of County Commissioners signed Resolution No. 91-111, a resolution revoking an Agricultural Exemption for Certificate of Survey No. 2497, as the current owner of the property, Dorothy Wood, desires to build a residence on the property.

Resolution No. 91-112

The Board of County Commissioners signed Resolution No. 91-112, a resolution revoking an Agricultural Exemption for Certificate of Survey 862, as the current owner of the property, Richard Tag, now desires to build a residence on the property.

Modification of Agreement

Chair Dussault signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences modifying the Section III(1) of the agreement concerning provision of services under the Maternal and Child Health Services Block Grant (DHES No. 320136) as set forth in the Modification. The Agreement was forwarded to DHES in Helena.

Modification of Agreement

Chair Dussault signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences for the purpose of modifying the terms of the agreement between them concerning provision of the WIC Program to Missoula County residents (DHES No. 320076) as set forth in the Modification. The Agreement was forwarded to DHES in Helena.

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

* * * * *

DECEMBER 18, 1991

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

DECEMBER 18, 1991 (cont.)Audit List

The Board of County Commissioners signed the Audit List, dated December 17, 1991, pages 4-32, with a grand total of \$231,360.41. The Audit List was returned to the Accounting Office.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 91-113

The Board of County Commissioners signed Resolution No. 91-113, a resolution accepting real property from P. David Edgell pursuant to delinquent taxes described as Lot 2 in Parcel F of Hillside Home No. 1 Supplemental Plat A, Missoula County, Montana.

Other items included:

The Commissioners appointed George Sherwood, Mike Rose, Paul Manson, Surry Latham, Don Klepper, and John Munch as members of the Board of Trustees of the New Frenchtown Fire District to serve until the next School Election in April of 1992.

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

WEEKLY PUBLIC MEETING

Chair Ann Mary Dussault called the meeting to order at 1:35 p.m. Also present were Commissioners Barbara Evans and Janet Stevens.

CONSIDERATION OF: DECISION ON RIVERBOTTOM ESTATES

Marnie McClain, Deputy County Attorney, explained that Dick Ainsworth and Dean Turner have asked whether the Conservation Easement Deed which they have given to the County would satisfy the cash in lieu of parkland dedication condition of plat approval. According to subdivision regulations, a summary subdivision shall make a cash in lieu contribution instead of a parkland dedication. The amount set for Riverbottom Estates was \$900.00.

Section 3-8 (E) (1) provides that the parkland dedication requirement or cash in lieu donation may be waived under the following conditions: 1. Where all lots are five (5) or more acres in size; and 2. where the subdivider enters into a covenant running with the land, revocable only with the mutual consent of the landowner and the governing body that the subdivision will never be subdivided into parcels of less than five (5) acres; and 3. that all parcels in the subdivision will be used for single family dwellings.

She said that rather than waive the requirement altogether, the Board of County Commissioners could find that the Conservation Easement Deed entered into by the developer satisfies the requirements of providing for open space within a subdivision and satisfies the cash in lieu condition.

Dick Ainsworth, Professional Consultants Incorporated, representing Mike Turner, the owner and developer of the property, asked that this request be approved. He said the Turners and Amy O'Herren of the Rural Planning Office had met and discussed the concepts of the conservation easement and are in agreement.

Amy O'Herren, Rural Planning, stated the Turners do concur with the language of the conservation easement. This document probably will be done after the first of the year. She said the developer has fulfilled the requirements of the proposal.

Janet Stevens moved and Barbara Evans seconded the motion to approve the summary plat of Riverbottom Estates subject to completion of the conservation easement deed, finding that the deed satisfies requirements of providing open space. The plat is approved subject to the findings of fact and conditions listed as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. Floodplain permits shall be obtained for the lots prior to construction of the homes.

DECEMBER 18, 1991 (cont.)

3. Approach permits shall be obtained for the driveways from the County Surveyor.
4. Driveways shall be paved a minimum of twenty feet (20 ') back from the roadway. These driveways shall be provided for at the time the lots are built on or in the covenants for each lot.
5. Excavation permits shall be obtained from the County Surveyor prior to installation of all services to the lots.
6. The Covenants and Restrictions 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 further that the documents contain the applicable provisions required by these regulations and any other provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

Motion carried on a vote of 3-0.

HEARING: LINDA VISTA SEVENTH SUPPLEMENT (PRELIMINARY PLAT)

Mike Kress, Office of Community Development, explained that Linda Vista 7th Supplement is a continuation of the previous Linda Vista Subdivisions.

The proposed Linda Vista 7th Supplement creates 121 lots on 70 acres. The proposed subdivision is located in the south 1/2 of Section 12 and the northwest 1/4 of Section 13, T12N, R20W, at the current end of Linda Vista Blvd., between Upper and Lower Miller Creek Roads. The Comp Plan designates the area as suburban residential (two dwelling units per acre). The majority of the area is zoned C-RR2, with a small portion of the proposal residing in Section 13 zoned C-RR1 (1 dwelling unit per acre). Although this area is proposed for approximately half acre lots, there is sufficient acreage to satisfy the density requirements. The comprehensive plan designates the area as suburban residential at a density possible of two dwelling units per acre.

Some of the comments and concerns that came up in the course of reviewing this subdivision had to do with the status of Cold Springs School which is presently close to maximum enrollment. The District has indicated they intend to place a school bond issue on either a June or November, 1992 ballot to address the need for an additional school in the South Hills area. However, it is likely new students may have to be bussed to other district schools. Another concern is the roads. The OCD office has received comments relative to the current status of Miller Creek Road from the County Engineer, the County Surveyor, Rural Fire, and the Sheriff's office. Horace Brown, County Surveyor is working with Mr. Twite for additional right of way and is beginning a planning phase for the improvement for Lower Miller Creek Road. Sewer was another area of concern. The development will need to bring sewer into the area. The developer has set aside six acres of common area for Park land dedication.

The Twite family began subdividing Linda Vista in 1957. Since that time, approximately 160 acres have been subdivided. The overall Linda Vista development plan calls for phase development into the next century, hopefully subdividing approximately 500 acres and creating approximately 1000 lots. In the past, the various supplements have been built out at a rate of approximately six to seven residences per year. However, recently the construction rate, according to the developer, is increasing to approximately 20 residences per year.

The OCD staff recommends that the Master Plan be reevaluated to: explore possibilities for improving internal pedestrian circulation, increase sensitivity to the local topography, connect existing and future open spaces, clusters development on sensitive land, preserves all natural drainages and features and adequately reflects the current zoning densities. While the staff has concerns based on comments received regarding schools, roads and sewer, the applicant will waive the right to protest improvements to the roads and for construction of the sewer.

The OCD staff recommends approval of Linda Vista 7th Supplement, subject to the following conditions:

1. Sanitary restrictions be lifted by the State and Local Health authorities.
2. The developer include the following statements on the face of the plat and in each instrument of conveyance: Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a RSID and can be used in lieu of signature on a RSID petition for the improvement of Linda Vista Boulevard and Upper and Lower Miller Creek Road and for the

DECEMBER 18, 1991 (cont.)

design and construction of a drainage system for the area affected by this subdivision and for construction of or extension of municipal or community sewer.

3. Grading, drainage, erosion control, street and sidewalk plans are subject to the approval of the County Surveyor.
4. A park development and maintenance RSID shall be established for any dedicated parks, common area, open space, or greenway.
5. The developer shall provide utility and drainage easements in the appropriate areas.
6. Fire hydrant locations are subject to approval of the Rural Fire Department.
7. The developer shall submit a set of covenants for review. These covenants shall bear the certification of the attorney who received or prepared them, that such attorney is licensed to practice law in the State of Montana, and any provision upon which plat approval was based or conditioned and that the provisions do not conflict.
8. The Articles of Incorporation and By-laws for the Property-Owners Association shall have proof of filing with the Secretary of State prior to filing of the plat.
9. All street names shall be approved by the County Surveyor.
10. All driveways shall be paved a minimum of 20 feet back from the roadway. The improved portion of the driveway shall consist of a gravel surface which is well drained. These driveways shall be provided for at the time the lots are built on, or in the covenants for each lot. The grade of the driveway shall not exceed 12%.
11. The developer shall submit engineering designs sufficient to alleviate the hazards mentioned in Article 3-1(2) of the Missoula County Subdivision Regulations, specifically to address any potential safety hazards created by building on slopes of greater than 25%.

Barring the ability to fully mitigate the concerns contained in the aforementioned section of the Regulations, OCD staff recommends that Lots 1, 2 and 3 of Block 1 be deleted from the plat based on the fact that the slopes exceed 25%.

12. The developer shall work with the appropriate agencies to develop a noxious weed management plan for the Linda Vista 7th Supplement and Master Plan area.
13. Linda Vista Boulevard shall be constructed to the standards in Article 3-2(8)(C), "Local Street 51 - 200 Dwelling Units." The road right-of-way shall be 60 feet wide, the road pavement width - face-to-face of curb -- shall be 40 feet wide. Linda Vista Boulevard shall be constructed, in its entirety, within two years of the final approval of Linda Vista 7th Supplement, Phase I.

The Office of Community Development staff recommends that the Board of County Commissioners extend the preliminary plat approval period for a period of ten years. The approval period shall be included as a specific condition of a written agreement between the Board of County Commissioners and the subdivider. According to Mike Kress, the applicant indicated that complete paving in this phase would represent a hardship.

Barbara Evans asked about the wording of condition #13. She asked if reference was being made to the additional access road from Upper Miller Creek into the subdivision which is being titled as Linda Vista Boulevard. She directed a question to Horace Brown relative to waiving the cushion and the paving.

Horace Brown, County Surveyor said the County would waive the cushion and the paving. The developers would pave the road to County standards as each phase of the project was completed. By the time the 7th Supplement was completed, the road would be paved up to Upper Miller Creek Road. However with Phase I, the road will be brought up to gravel standard so it is accessible. The road will be a two lane gravel road. He said the OCD staff is requiring that the developer pave within 2 years. It is up to the Commissioners if they want to do this. The developer would like to pave each segment as they do it. They will build a gravel road completely through from the end of Linda Vista Road to Upper Miller Creek Road. If they wish to have the County maintain it, they need to have it in writing as these segments are completed.

DECEMBER 18, 1991 (cont.)

Barbara Evans asked if there was a time frame that the developer must have the road built to gravel standards? Is it prior to filing?

Horace Brown said it would be upon the filing of Phase I. Once they start this, the gravel road would have to be built.

A general discussion ensued relative to the wording of Condition No. 13.

Lloyd Twite, developer, stated that he would agree to have the gravel road in this area in a period of nine months upon filing of Phase I--7th Supplement. This would give the developers through the summer months to construct the gravel road to County standards.

The hearing was opened to public comment.

Charles Johnson, Druyvestein, Johnson & Anderson, representing the developer and the Twite Family partnership, presented a drawing of the Linda Vista area. The map identified how the developers would phase development over a period of 10 years.

He said with the platting of Linda Vista 7th Supplement, and with the recent addition of the extension of sewer in the Cold Springs area, it now becomes more feasible for the developer to run a central collection sewer line out to this area. That will be done as part of this development. It would be constructed in size that would allow connections of not only the existing homes in the Linda Vista area, but also the projected homes. The developers feel this is a very positive step in the development of this area.

With the construction of Linda Vista 5th Supplement, the central water system was installed into the area. This system serves all older platted areas of Linda Vista as well as service to anyone who wants to hook up to this water system. This system will also serve the Linda Vista 7th Supplement.

He addressed another concern of the residents; that of traffic in the Lower Creek area. In the last six weeks the developers have worked with the County Commissioners and the Surveyors Office in an effort to create an RSID that will allow for improvements on the Lower Miller Creek area and the portion of Linda Vista Boulevard between Lower Miller Creek Road and Linda Vista 5th Supplement. Mr. Twite has recently purchased land that is adjacent to and lays between the Lower Miller Creek Road and the river that he is willing to work with the County on providing additional right of way through the area to change the alignment.

He asked the Commissioners to rewrite Condition No. 13 to reflect the changes that had been discussed earlier.

A discussion ensued relative to the road construction to County gravel standards in Condition No. 13.

Ann Mary Dussault said one issue that needed to be made clearer was the issue of temporary graveling and future paving of Linda Vista Boulevard is not negotiable. It is the Commissioners position that the road will go in and it will be passable. The Board is willing to negotiate on the paving, but it is not negotiable whether this road will go in and whether or not it is going to be passable.

Greg Hamilton, Gillespie Realty and a homeowner within Linda Vista gave some facts and figures relative to the real estate market in Missoula. He advocated further home construction in the area.

A call was received from Geoff Bayllis who was in support of Linda Vista 7th Supplement.

Pamela Parish, homeowner in the area, presented a petition which reads as follows:

Based upon the issues listed below, we, the residents of the Miller Creek area, hereby petition the Missoula Board of County Commissioners to deny approval of Linda Vista 7th Supplement subdivision as submitted by the Twite Family Partnership:

1. The lack of acceptable plan to handle increased traffic on the existing streets and roads in the Upper Miller Creek area.
2. Increased risk of traffic at intersection of Miller Creek Road with Highway 93.
3. The lack of acceptable plan for providing adequate public school facilities to accommodate increased population.

DECEMBER 18, 1991 (cont.)

4. Existing Upper Miller Creek residents will be forced to pay RSID's levied as a result of this subdivision that will not substantially improve existing property.

She explained the petition had been signed by at least 50 people.

Gary Turback, resident of Linda Vista Boulevard, expressed concern relative to the additional access on Linda Vista Boulevard, and asked the Board to require the developer to pave the road in its entirety immediately or at some point as soon as possible. He said there are four aspects wrong with a gravel road; 1) it is out of character with the other streets in Linda Vista; 2) it would cost the County money to maintain the road; 3) it would cause dust problems; 4) people will not be encouraged to use this extension of Linda Vista Road. He encouraged the Commissioners to require the paving of Linda Vista Boulevard immediately.

John DeVore, Administrative Officer, explained that the Twite Family partnership would privately finance the construction of the sewer interceptor to serve the Linda Vista area and for the entire development. In return for a negotiated utility agreement between the County and the Twite Family Partnership, the developers are proposing to provide the front-end finances to construct the interceptor. This would provide for hookup fees over a 21-year period for future hookups in order to recruit their investment in the interceptor at this time. Initially, the Twite Family Partnership, the subdivision as proposed, would be connected to the system. The Lower Linda Vista area, which has been identified as having ground water problems by the local Health Department, and the State Health Department, will be looked at in terms of the feasibility of putting the area in this phase of the project.

Ann Mary Dussault asked Horace Brown to address the following:

- 1) discussions with Lloyd Twite and Chip Johnson regarding Lower Miller Creek Road; 2) the discussions relative to the intersection at Highway 93 and Lower Miller Creek Road; and 3) the difference in cost in maintaining gravel road versus paved road.

Horace Brown explained that paving is more expensive to maintain than gravel road. The cost is about \$3,000 a mile to maintain gravel and about \$4,000 a mile to maintain paved road per year. It is less expensive to maintain gravel road, however it is not the best type of road.

He said there have been several options discussed relative to Lower Miller Creek Road, although nothing has been firmed up as far as design. Mr. Twite now has the right of way necessary to do some improvements in the road. There could be some changes to the intersection of Lower and Upper Miller Creek Road. There appears to be a development that will go in around the intersection of Highway 93 and Lower Miller Creek Road that will realign that section. It is still in the stage of being planned, but it will probably be a four lane road with turn lanes, a short distance from highway 93 to at least the end of the subdivision. There will be possibly a turn lane going to Highway 93. A light has been suggested for the intersection of Highway 93 and Lower Miller Creek Road. This is all in the planning stage.

Janet Stevens asked Horace Brown if it was possible to apply dust abatement on the unpaved portion of Linda Vista Boulevard and how would that effect the maintenance on the road?

Horace Brown said the developers would have to apply a fine gravel on top in order to put the dust abatement down. Otherwise, it wouldn't last. If there is a good gravel top with some clay in it, then it would probably last 3 years. The road would have to be graded when it was wet to keep the road smooth.

Barbara Evans asked Lloyd Twite to give his feelings about the requirement of adding dust abatement to the road.

Lloyd Twite had a problem with adding dust abatement because he feels there won't be that many vehicles using the road until phase 7 or 8. The dust problem will be phased out by paving that portion of road after each phase is completed. If in fact, the developer does get calls complaining about a dust problem, he would be willing to then apply dust abatement.

Ann Mary Dussault asked Pamela Parish about the RSID's she was concerned about being levied on Meriwether for the widening of Lower Miller Creek Road.

Pamela Parish asked about the cost of dust abatement and how this would be done.

Horace Brown explained that if dust abatement is applied, a fine gravel would have to be put on top which would increase the cost of building a gravel road. In addition, it would be approximately \$4,400

DECEMBER 18, 1991 (cont.)

a mile for the dust abatement to be applied to the surface. The material used as dust abatement is magnesium chloride which will last 3 years.

A general discussion ensued relative to a RSID for the upgrading of Miller Creek Road.

Ann Mary Dussault stated that the discussions so far have been relative to improvement of the road system in the area, specifically Lower Miller Creek Road and the part of the road below the "we" intersecting Highway 93. She asked Horace Brown if there had been any significant discussion on Upper Miller Creek Road.

Horace Brown indicated that Upper Miller Creek Road could carry the traffic with no problems. The only problem on this road is the "we" at the intersection of Upper and Lower Miller Creek Roads.

Barbara Evans asked if the Surveyors Office had this projected for any number of years.

Horace Brown stated that they didn't.

Ann Mary Dussault said that Upper Miller Creek Road isn't even in the Capital Improvement Program (CIP) as of yet.

She said Lower Miller creek has been in the CIP Program for 12 years or so. The possibility of Upper Miller Creek even being considered in the next decade is remote.

Pamela Parish asked about a RSID on Meriwether Court.

Ann Mary Dussault asked Lloyd Twite if Meriwether is considered for the sewer intersector.

Lloyd Twite said the discussions they have had with John DeVore and the State and local health authorities, there are no plans to extend sewer in at Meriwether at this time. The masterplan for the sewer in the area includes lines or interceptors that would serve the Lower Miller Creek/Linda Vista area as well as Upper Miller Creek.

Janet Stevens said that there would be a separate interceptor going to Upper Miller Creek, but there are no plans to put sewer in that particular area.

Ann Mary Dussault asked if there were any plans to run an interceptor up to Meriwether.

Barbara Evans stated that if Meriwether represented a problem where all of the systems are failing and are adding to a ground water problem, then it would be identified as an area to run the sewer interceptor to. But at this point that doesn't appear to be the case. If in the future there is a problem, then that area should have to pay the sewer costs.

John DeVore stated in this Phase of Linda Vista, part of the project would be the installation of monitoring wells towards the upper end of Miller Creek in order to make a determination whether those areas are contributing to the problem that is being experienced in the lower area. This is also a part of a well head protection program.

Barbara Evans addressed the question of the schools, another concern of the residents of the area. She said it is not proper for development to be stopped or preventing growth because the schools are not at the moment equipped to handle the growth. Rather, it is the responsibility of the schools to respond to the need. They are a separate taxing district with separate bonding capacities and have the ability and should have the vision to determine what development is likely to occur and plan ahead for that.

Barbara Evans moved and Janet Stevens seconded the motion to approve the Linda Vista 7th Supplement subject to the findings of fact as contained in the staff report and the conditions as follows:

1. Sanitary restrictions be lifted by the State and Local Health authorities.
2. The developer include the following statements on the face of the plat and in each instrument of conveyance: Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a RSID and can be used in lieu of signature on a RSID petition for the improvement of Linda Vista Boulevard and Upper and Lower Miller Creek Road and for the design and construction of a drainage system for the area affected by this subdivision and for construction of or extension of municipal or community sewer.

DECEMBER 18, 1991 (cont.)

3. Grading, drainage, erosion control, street, and sidewalk plans are subject to the approval of the County Surveyor.
4. A park development and maintenance RSID shall be established for any dedicated parks, common area, open space, or greenway.
5. The developer shall provide utility and drainage easements in the appropriate areas.
6. Fire hydrant locations are subject to approval of the Rural Fire Department.
7. The developer shall submit a set of covenants for review. These covenants shall bear the certification of the attorney who received or prepared them, that such attorney is licensed to practice law in the State of Montana, and any provision upon which plat approval was based or conditioned and that the provisions do not conflict.
8. The Articles of Incorporation and By-laws for the Property-Owners Association shall have proof of filing with the Secretary of State prior to filing of the plat.
9. All street names shall be approved by the County Surveyor.
10. All driveways shall be paved a minimum of 20 feet back from the roadway. The improved portion of the driveway shall consist of a gravel surface which is well drained. These driveways shall be provided for at the time the lots are built on, or in the covenants for each lot. The grade of the driveway shall not exceed 12%.
11. The developer shall submit engineering designs sufficient to alleviate the hazards mentioned in Article 3-1(2) of the Missoula County Subdivision Regulations, specifically to address any potential safety hazards created by building on slopes of greater than 25%.

Barring the ability to fully mitigate the concerns contained in the aforementioned section of the Regulations, OCD staff recommends that Lots 1, 2 and 3 of Block 1 be deleted from the plat based on the fact that the slopes exceed 25%.

12. The developer shall work with the appropriate agencies to develop a noxious weed management plan for the Linda Vista 7th Supplement and Master Plan area.
13. Linda Vista Boulevard shall be constructed to the standards in Article 3-2(8)(C), "Local Street 51 - 200 Dwelling Units." The road right-of-way shall be 60 feet wide, the road pavement width - face-to-face of curb -- shall be 40 feet wide. Linda Vista Boulevard shall be constructed, in its entirety, to standards approved by the County Surveyor, within nine months of the filing of Linda Vista 7th Supplement, Phase I, or no later than the end of 1992, and that each section of road will be paved as the subdivision phases are completed (as weather allows). Should dust abatement be required as determined by the County Surveyor, the developer will provide it.

Chair Ann Mary Dussault offered an amendment to the motion as follows:

The developer shall be required to provide dust abatement by the County, according to the standards set by the County Surveyor.

She said she made the amendment for the reason that whether or not this road is traveled is a matter of speculation. This road is in the Air Stagnation Zone. She feels that the Commissioners should be requiring this road to be paved. It is the practice not to allow gravel roads in the Air Stagnation Zone. Given that the Board is allowing the paving to occur in phases, she feels the least the Board should require appropriate dust abatement be placed on this road.

Barbara Evans, stated she was concerned with the amendment because Phases 1 through 10 will cover a ten year period. If the Board requires dust abatement, then the Board needs to address the fact that the magnesium chloride will last three years and would necessitate being replaced in 3-year increments versus dust oil being replaced yearly.

Ann Mary Dussault said the developers and the County Surveyors office would determine whether dust oil or magnesium chloride is the best and most cost effective application. However the dust abatement is accomplished, the dust needs to be controlled.

A discussion ensued relative to the subject subdivision being within the Air Stagnation Zone.

DECEMBER 18, 1991 (cont.)

There being a lack of a second to the amendment of the original motion, the amendment as proposed by Ann Mary Dussault failed.

Janet Stevens offered an amendment to the motion as follows: If the area of the proposed subdivision is in the Air Stagnation Zone, the Board will require dust abatement to be mandatory. The amendment carried on a vote of 3-0.

The original motion carried on a vote of 3-0.

CONSIDERATION OF: FULLERTON TRACTS (SUMMARY PLAT)

Barb Martens, Office of Community Development, explained that Fullerton Tracts is a proposed subdivision of 20.82 acres into four single family lots, each slightly over five acres in size. The property is located in the Big Flat area, just west and north of Big Flat Road at the right angle curves. Individual sewage disposal systems and wells are proposed. The property is zoned "C-A3" (Residential), which allows a maximum density of one dwelling per five acres.

The Office of Community Development staff recommends that the summary plat for Fullerton Tracts be approved, subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. The developer shall enter into a covenant to run with the land. This covenant shall be revocable only by mutual consent of the Board of County Commissioners and the property owner. The covenant shall state that the parcels in the subdivision shall be used for single family dwellings.
3. Approach permits shall be obtained from the County Surveyor.
4. A one foot (1') no access strip shall be provided along Big Flat Road as required by the County Surveyor.
5. One access point shall be allowed onto Big Flat Road. Lots 1, 2 and 3 shall access through a shared approach located on Lot 2. This approach shall be located across from Windemire Road. An easement shall be provided on Lot 2, allowing Lots 2 and 3 access to the shared approach.
6. Lot 4 shall access onto Paradise Road.
7. All driveways accessing a paved roadway shall be paved a minimum of 20' back from the roadway.
8. The petition road easement shall be shown on the plat as a County road easement with the required Book and Pages.
9. The Big Flat Irrigation District shall approve the easement locations and any construction plans for the irrigation ditch.

Barbara Evans moved and Janet Stevens seconded the motion to approve the Summary Plat of Fullerton Tracts, based on the findings of fact and subject to the conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. The developer shall enter into a covenant to run with the land. This covenant shall be revocable only by mutual consent of the Board of County Commissioners and the property owner. The covenant shall state that the parcels in the subdivision shall be used for single family dwellings.
3. Approach permits shall be obtained from the County Surveyor.
4. A one foot (1') no access strip shall be provided along Big Flat Road as required by the County Surveyor.
5. One access point shall be allowed onto Big Flat Road. Lots 1, 2 and 3 shall access through a shared approach located on Lot 2. This approach shall be located across from Windemire Road. An easement shall be provided on Lot 2, allowing g Lots 2 and 3 access to the shared approach.
6. Lot 4 shall access onto Paradise Road.

DECEMBER 18, 1991 (cont.)

7. All driveways accessing a paved roadway shall be paved a minimum of 20' back from the roadway.
8. The petition road easement shall be shown on the plat as a County road easement with the required Book and Pages.
9. The Big Flat Irrigation District shall approve the easement locations and any construction plans for the irrigation ditch.

Motion carried on a vote of 2-0 in the absence of Ann Mary Dussault.

CONSIDERATION OF: STRAND AVENUE LOTS (SUMMARY PLAT)

John Mangiameli, Office of Community Development, explained that the proposed Strand Avenue Lots subdivision is a two lot split. The parent parcel is a total of 2.43 acres; Lot 1 will be 1 acre and Lot 2 will be 1.43 acres. The proposed subdivision is located south of Strand, just east of 27th Street. The Missoula Urban Comprehensive Plan recommend the land within this subdivision be developed at a maximum density of 2 dwelling units per acre. The area is currently zoned ZD 12; the minimum lot size is 12,000 square feet per dwelling.

The Office of Community Development staff recommends that Strand Avenue Lots Summary Plat be approved, subject to the conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. If practicable, Lots 1 and 2 shall have a shared access. The access is subject to the approval of the County Surveyor. If shared access requires an access easement across Lot 1, one shall be indicated on the face of the plat.
3. The Missoula Irrigation District shall approve the easement locations and any construction plans for the irrigation ditch.
4. The irrigation ditch culvert shall be capable of supporting 40,000 pounds for fire apparatus. Plans shall be approved by the Missoula Rural Fire District.
5. All driveways accessing a paved road shall be paved a minimum of 20 feet back from the roadway.

John Mangiameli said there is an irrigation ditch that runs parallel to Strand Avenue and Condition #4 addresses this.

Andy Fisher, Eli & Associates, said he agrees with all stated conditions except for Condition #2. He felt the condition was not practical. He asked how Condition #4 could be enforced.

A discussion ensued relative to Condition #4 and how an approach permit would be issued and whether the Rural Fire Department or the County Surveyors Office would issue it.

Janet Stevens moved and Barbara Evans seconded the motion to approve Strand Avenue Lots Summary Plat subject to the conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. If practicable, Lots 1 and 2 shall have a shared access. The access is subject to the approval of the county Surveyor. If shared access requires an access easement across Lot 1, one shall be indicated on the face of the plat.
3. The Missoula Irrigation District shall approve the easement locations and any construction plans for the irrigation ditch.
4. The irrigation ditch culvert shall be capable of supporting 40,000 pounds for fire apparatus. Plans shall be approved by the Missoula County Surveyor's Office.
5. All driveways accessing a paved road shall be paved a minimum of 20 feet back from the roadway.

DECEMBER 18, 1991 (cont.)

The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Board of County Commissioners recessed at 3:05 p.m.

The Board convened at 3:06 p.m. as the as the Missoula County Airport Area Industrial Tax Increment District Board. Those present were Commissioners Ann Mary Dussault, Barbara Evans, and Janet Stevens.

CONSIDERATION OF: PURCHASE OF SUNLIGHT LANDS

John DeVore, Administrative Officer, explained that in December of 1990 the Board of County Commissioners negotiated a Lease Purchase Agreement with the Sunlight Development Corporation relative to their lands across from the Missoula County Airport. As part of this Transaction, the Commissioners also received an Easement in Gross for 10 acres for the purpose of access roads for the proposed Interchange at Butler Creek. On December 12, 1991, the Board of County Commissioners transferred their interest in both of these agreements to the Missoula County Airport Area Industrial Tax Increment District. Based on this transfer of interest, the staff of the Tax Increment District has negotiated a Buy Sell and Contract for Deed with Sunlight for the purchase of this property. The basic framework of this transaction is as follows: 1) The total purchase price is \$1,316,890; 2) Cash at closing is \$230,000; 3) This will result in 40.5 acres being deeded to the Tax Increment District which represents 95% of the right of way needed for the Airport Interchange which was recently funded; 4) the balance of the purchased \$1,086,890 will be carried on a Contract for Deed at 10% annual interest through July 1, 1993 at which time the interest will increase to 12%; 5) there are no penalties for prepayment; 6) there are provisions for deed releases during the term of the contract to accommodate subsequent sales; and 7) the contract calls for annual payments each December 20 of \$230,000 during the term of the contract.

Staff recommends the following action:

- 1) Approval of the Agreement to Sell and Purchase, Contract for Deed, Escrow Agreement, Notice of Purchaser's Interest and Quit Claim Deed.
- 2) Approval by the Board for the Chair to represent the Board at closing and authorization to sign the closing statement on behalf of the Missoula County Airport Area Industrial Tax Increment District.

The hearing was opened for public comment, there being none the hearing was closed.

Barbara Evans moved and Janet Stevens seconded the motion to approve the Agreement to Sell and Purchase, Contract for Deed, Escrow Agreement, Notice of Purchaser's Interest and Quit Claim Deed, and authorize the chairman to represent the Board to sign at the closing on behalf of Missoula County Airport Area Industrial Tax Increment District for the purchase of the Sunlight Lands. The motion carried on a vote of 3-0.

Janet Stevens moved and Barbara Evans seconded the motion to appoint Ann Mary Dussault as Chair of the Missoula County Airport Area Industrial Tax Increment District Board until December 31, 1991, after which Barbara Evans will serve as Chairman. The motion carried on a vote of 3-0.

There being no further business, the Missoula County Airport Area Industrial Tax Increment District Board adjourned.

The Public Meeting of the Board of County Commissioners was reconvened. There being no further business to come before the Board, the meeting was adjourned at 3:15 p.m.

* * * * *

DECEMBER 19, 1991

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:

DECEMBER 19, 1991 (cont.)Addendum to Travel Policy

The Board of County Commissioners signed an Addendum to Policy 88-A, the Missoula County Travel Policy, increasing the mileage reimbursement to 27.5 cents for the first 1,000 miles per month traveled, effective January 1, 1992. as per the IRS allotment for the preceding year.

Other items included:

- 1) The Commissioners appointed Tom Stevens and Paul Abel as appraisers and Collin Bangs and Robin Campbell as realtors to the newly created Sales Assessment Advisory Board, with an organizational meeting to be held after the first of the year; and
- 2) the Commissioners authorized Vickie Zeier, Recording Supervisor, to go ahead with preparations for the tax deed and auction process for the 1987 and 1988 delinquencies, as per the list submitted October 10, 1991.

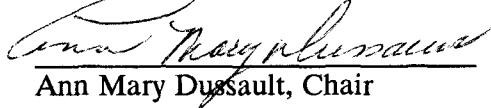
The minutes of the daily administrative meeting are on file in the Commissioners Office.

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DECEMBER 20, 1991

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


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

* * * * *

DECEMBER 23, 1991

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 the Missoula City-County Health Department and the Western Montana Regional Community Mental Health Center, Inc. for the purpose of coordinating comprehensive dependency services including outpatient care, preventive public education services, emergency care and consultation to residents of Missoula County, as per the terms and compensation set forth, commencing January 1, 1992, and ending June 30, 1992.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Jeffrey P. and Lynne W. Sholty for Lot 2, Parcel F, Hillside Home Addition of Supplemental Plat A, as per the terms set forth, for a total purchase price of \$9,000.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Listing Contract

The Board of County Commissioners signed a Listing Contract between Missoula County and Scott Hollenbeck of Properties 2000 for the sale of property located in the Grant Creek Area (Lots 2, 3, 19, & 22 of Grantland 12; Lots 5, 6 & 7 as one parcel, and Lots 9, 32, 44, and 46 of Grantland 13, as per the terms set forth, with the contract expiring December 31, 1992. The contract was returned to Jim Dopp, Operations Officer, for further handling.

Listing Contract with Addendums

The Board of County Commissioners signed a Listing Contract between Missoula County and Coldwell Banker Steinbrenner Real Estate/Properties 2000, Merilynn Foss and Scott Hollenbeck as the listing agents, for the sale of the property listed at the prices shown on the three addendums attached to

DECEMBER 23, 1991 (cont.)

Contract, effective December 31, 1991 and expiring on December 31, 1992. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Resolution No. 91-114

The Board of County Commissioners signed Resolution No. 91-114, a budget amendment for FY'92 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditures</u>	<u>FY'92 Adopted Budget</u>	<u>FY'92 Proposed Addition</u>	<u>FY'92 Amended Budget</u>
2270-611-443200-111 Perm. Salaries	\$ 6,000	\$19,017	\$25,017
2270-611-443200-112 Temp. Salaries	0	11,338	11,338
2270-611-443200-141 Fringe Benefits	1,423	7,020	8,443
2270-611-443200-114 Work Study	0	2,536	2,536
2270-611-443200-192 Merit Reserve	401	0	401
2270-611-443200-206 Office Supplies	125	375	500
2270-611-443200-311 Printing	530	250	780
2270-611-443200-322 Telephone	0	646	646
2270-611-443200-321 Long Distance	0	324	324
2270-611-443200-327 Consult. Serv.	530	6,018	6,548
2270-611-443200-356 Common Carrier	250	1,250	1,500
2270-611-443200-357 Meal, Lodge	100	400	500
2270-611-443200-358 Milage	200	1,834	2,034
2270-611-443200-301 Postage	0	1,000	1,000
TOTALS	\$ 9,559	\$52,008	\$61,567

<u>Description of Expenditures</u>	<u>Revenue</u>
2270-611-323232	EPA 5X28 GRANT FY 92 ADOPTED \$ 9,559
2270-611-323232	EPA 5X28 GRANT FY 92 ADDITION \$36,616
Decrease spending authority in:	
2270-611-442200-111	From: \$214,712 to: \$199,320 \$15,392
	(required 25% from County match \$61,567)
EPA funds received. Assistance ID No. G1008692-01-2, Log No. 08-GI-2	

Resolution No. 91-115

The Board of County Commissioners signed Resolution No. 91-115, a budget amendment for FY'92 for the Health Department, including the following expenditures and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>Budget</u>
2270-611-442400-112 Temp Salaries	\$11,440
2270-611-442400-141 Fringe Benefits	2,745
2270-611-442400-206 Office Supplies	250
2270-611-442400-311 Printing	500
2270-611-442400-322 Telephone	375
2270-611-442400-356 Common Carrier	500
2270-611-442400-357 Meal, Lodge	250
	<u>\$16,060</u>

<u>Description of Revenue</u>	<u>Revenue</u>
2270-611-333005 EPA W.H.P. Grant	\$16,060

EPA funds received. Assistance ID No. S008726-01-0, Log No. 08-S-12.

Other items included:

- 1) The Commissioners approved a request from Justice of the Peace, Michael Morris, to hire temporary help in Department #2, until the personnel situation is resolved;

DECEMBER 23, 1991 (cont.)

- 2) The Commissioners selected Barbara Evans as the Chairman of the Board for 1992; and
- 3) the WEDGO/Micro-Business Direct Loan program was discussed, and the Commissioners authorized development of a contract for Missoula County's share of the local match requirement amounting to \$30,000.00, as per the memo from John DeVore, Administrative Officer, dated December 19, 1991.

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

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DECEMBER 24, 1991

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

Audit List

Commissioners Dussault and Evans signed the Audit List dated December 23, 1991, pages 3-36, with a grand total of \$160,157.16. The Audit List was returned to the Accounting Department.

Plat

The Board of County Commissioners signed the Plat for the Double Arrow Ranch, Lot 208, Phase 1A.

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DECEMBER 25, 1991

The Courthouse was closed for the Christmas Day holiday.

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DECEMBER 26, 1991

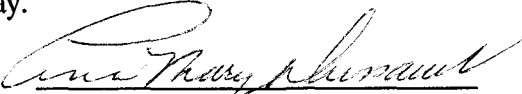
The Board of County Commissioners did not meet in regular session; Commissioners Evans and Dussault were out of the office all day.

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DECEMBER 27, 1991

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


Wendy Cromwell, Clerk & Recorder


Ann Mary Dussault, Chair

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DECEMBER 30, 1991

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

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DECEMBER 31, 1991

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 December 31, 1991, pages 4-28, with a grand total of \$90,748.08. The Audit List was returned to the Accounting Department.

DECEMBER 31, 1991 (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 Bev Glueckert, 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 Art School, as per the terms set forth, commencing October 1, 1991, and ending June 30, 1992, for a total payment not to exceed \$10.00 per hour.

Other items included:

As per the recommendation of Hal Luttschwager, County Risk Manager, the Commissioners sent a written denial of a claim for damages filed August 30, 1991, by John Hamilton for damage to his pickup at the Road Department parking area while he was employed there.

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

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JANUARY 1, 1992

The Missoula County Courthouse was closed in observance of the New Year's Day holiday.

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JANUARY 2, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Reports for Justices of the Peace, David K. Clark and Michael D. Morris, for month ending December 31, 1991.

DAILY ADMINISTRATIVE MEETING

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

Main Extension Contract

Chairman Evans signed a contract between Missoula County and Mountain Water Company, whereby the County has applied for a water main extension for the purpose of furnishing public utility water service to Wildground Lane/Harmony Circle in the Lincoln Hills Area to be installed by Mountain Water Company, as per the terms set forth, for an amount of \$74,094.34 to be advanced by the County to cover the cost of distribution facilities. The effective date of the contract shall be December 16, 1991.

Resolution No. 92-001

The Board of County Commissioners signed Resolution No. 92-001 - Application for Tax Deed, authorizing and instructing the County Clerk & Recorder to make application to the County Treasurer of Missoula County for tax deeds on the lands listed on the attachment to the Resolution which remain unredeemed in the office of County Treasurer on September 24, 1991, and for which notice has heretofore been properly made; and instructing the County Treasurer to cancel, 1987, 1988, 1989, 1990 and the current year's taxes on the same.

Other items included:

- 1) the Commissioners approved \$1,028.00 as additional funding for the Solid Waste Task Force for internships for the months of January through March of 1992; and
- 2) the Commissioners made the following appointments to the Fair Commission:
 - Julie Gemar and Mick Harsell were reappointed to two-year terms through December 31, 1993;
 - Charles Deschamps was appointed as a "regular" member to fill the unexpired term of Stan Feist through December 31, 1992; and
 - Brad Wenz was reappointed to a two-year term as an ad hoc member through December 31, 1993.

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

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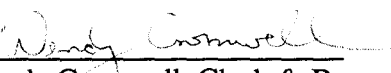
JANUARY 3, 1992

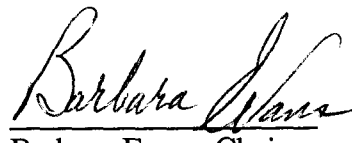
The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Stevens was out of the office until noon.

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond naming Alan English as principal for warrant #223478, dated 10/23/91, on the Missoula County Health Fund in the amount of \$30.68 now unable to be found.

JANUARY 3, 1992 (cont.)


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

JANUARY 6, 1992

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 due to illness.

Audit List

Chairman Evans and Commissioner Stevens signed the Audit List, dated January 6, 1991, pages 4-26, with a grand total of \$56,531.73. 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 to Sell and Purchase

Chairman Evans and Commissioner Dussault signed an agreement to sell tax deed property to Aaron W. & Carol D. Sable - Lot 32, Grantland 13 (bare land) - Missoula County, Montana for a total purchase price of \$23,900.00, as per the terms and conditions set forth. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Quitclaim Deed

The Board of County Commissioners signed a Quitclaim Deed from Missoula County to Michael L. Pedersen for Lot 9, Block 15, Greenwood Addition, Missoula County, Montana.

Grant Request

The Board of County Commissioners approved a request from Cindy Wulfekuhle, CDBG Mgr. for a \$2,000 grant to Extended Family Services, Inc. (EFS) for actual costs incurred due to temporary relocation during interior construction as part of the CDBG project, with any costs above \$2,000.00 to be absorbed by EFS.

Other matters included:

The Commissioners designated Mike O'Hara, Jail Captain, as the County Coordinator for the HB 103 Plan dealing with incarceration of the mentally ill.

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

JANUARY 7, 1992

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 between Missoula County and B.J. Buckley, Lolo, MT, 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 Arts Art School, commencing October 1, 1991 and conclude on June 30, 1992, with payment not to exceed \$10.00 per hour.

JANUARY 7, 1992 (cont.)

Budget Transfer

Budget Transfer No. 92014 was Voided and replaced by a Budget Amendment.

Resolution No. 92-002

The Board of County Commissioners signed Resolution No. 92-002, a Budget Amendment for FY'92 for the Medical Insurance Department, including the following expenditures and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>Budget</u>
Capital - Technical Equipment (hardware, software, support & training) 7070-896-411810-946	\$100,000
<u>Description of Revenue</u>	<u>Revenue</u>
Cash in Trust Fund	\$100,000

Budget Transfers

The Board of County Commissioners approved and signed the following Budget Transfers and adopted them as part of the FY'92 budget:

- 1) no. 910030, a request from Financial Administration to transfer \$230,000 from various accounts (listed on the attachment to the Transfer in the Budget file) to the Capital - Land Acquisition account for the purpose of land acquisition near the Airport;
- 2) no. 920012, a request from Financial Administration to transfer \$465,566.00 from the Permanent Salaries and Fringe salary increase pool to various General Fund departments (listed on the attachment to the original transfer) for the purpose of salary increases after 7/1/92; and
- 3) no. 920013, a request from Court Operations to transfer \$58,810.00 from the salary increase pool to various departments in District Court for the purpose of FY'92 salary increases.

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

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JANUARY 8, 1992

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 and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and Warranty Deed from Missoula County to Lee C. Gordon for Lots 6, 7, 9 and 14 in Block 8 of Hillview Heights No. 6 - Book 12 of Plats at page 23, free from all encumbrances except those set forth. The Deed was returned to Jim Dopp, Operations Officer, for further handling.

Agreement

The Board of County Commissioners signed an Agreement between the State of Montana, Dept. of Revenue and Missoula County for the purpose of providing to the Department of Revenue the computer hardware and software, and changes to and servicing for computer hardware and software, all necessary for the Dept. to appraise and assess property located in Missoula County in accordance with the provisions of Title 15, MCA and the Administrative Rules of Montana, as per the terms set forth, for an annual payment to the County of \$10,000.00, with the Department being obligated for a total amount

JANUARY 8, 1992 (cont.)

of \$20,000.00, and the Agreement shall terminate on June 30, 1993. One original Agreement was forwarded to the Department of Revenue in Helena.

Resolution No. 92-003

The Board of County Commissioners signed Resolution No. 92-003 authorizing the Sale of Tax Deed Property acquired on January 6, 1992, and described on the list attached to the original Resolution; also resolving that the Clerk & Recorder publish and post notices of this Order of Sale of Tax Deed Property in accordance with the law, and setting the date of the sale for January 22, 1992, at 1:30 p.m.

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

WEEKLY PUBLIC MEETING

Chairman Barbara Evans called the meeting to order at 1:35 p.m. Also present were Commissioners Ann Mary Dussault and Janet Stevens.

CONSIDERATION OF: Wylie Acres No. 2 (Summary Plat)

John Mangiamelli, Office of Community Development, explained that the proposed Wylie Acre No. 2 Subdivision is a two lot split. The parent parcel is a total of 1.75 acres; Lot 1A will be .958 acre and Lot 1B will be .795 acre. The proposed subdivision is located on the southwest corner of South Avenue and Humble Road. Lot 1A accesses onto South Avenue and Lot 1B accesses onto Humble Road. The Missoula Urban Comprehensive Plan recommends the land within this subdivision be developed at a maximum density of 2 dwelling units per acre. The area is currently zoned CRR-1, this zone proposes a maximum density of 1 dwelling unit per acre.

In the Findings of Fact, Doug Kikkert, Environmental Health Specialist states, "Lot sizes do not meet state requirements for individual water and sewer. One acre is standard lot size unless otherwise exempted by the state." A letter written by Mike Sehestedt, Deputy County Attorney, gives an opinion regarding the gross area inclusive of right-of-ways, which indicates that developers are basically able to use all of the lot area even a section of the property that resides underneath right of way to satisfy the septic standards for Environmental Health.

He said there is an irrigation ditch along the property and it was recommended that the Missoula Irrigation Ditch Company be notified and Missoula Rural Fire must approve a plan for driveway improvements in the ditch area.

The Office of Community Development staff recommends that Wylie Acres No. 2 be approved subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities. State and local health authorities shall review and approve the minimum lot size requirement for the septic systems.
2. All easements shall be shown on the face of the plat.
3. The Missoula Irrigation District shall approve the easement locations and any construction plans for the irrigation ditch.
4. The irrigation ditch culvert shall be capable of supporting 40,000 pounds for fire apparatus. Plans shall be approved by the County Surveyor.
5. All driveways accessing a paved road shall be paved a minimum of 20 feet back from the roadway. Such provision shall be made in the covenants or at the time of construction.
6. The developer shall include a statement on the subdivision plat that states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners of Lots 1A and 1B to any future RSID for the upgrade of South Avenue. and the assent of the owner of Lot 1B for the upgrade of Humble Road, and may be used in lieu of their signatures on a RSID petition.

A general discussion ensued relative to density and the zoning.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve Wylie Acres No. 2 Summary Plat based on the findings of fact and subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities. State and local health authorities shall review and approve the minimum lot size requirement for the septic systems.
2. All easements shall be shown on the face of the plat.
3. The Missoula Irrigation District shall approve the easement locations and any construction plans for the irrigation ditch.
4. The irrigation ditch culvert shall be capable of supporting 40,000 pounds for fire apparatus. Plans shall be approved by the County Surveyor.
5. All driveways accessing a paved road shall be paved a minimum of 20 feet back from the roadway. Such provision shall be made in the covenants or at the time of construction.
6. The developer shall include a statement on the subdivision plat that states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners of Lots 1A and 1B to any future RSID for the upgrade of South Ave. and the assent of the owner of Lot 1B for the upgrade of Humble Road, and may be used in lieu of their signatures on a RSID petition.

The motion carried on a vote of 3-0.

CONSIDERATION OF: Cogdill Addition No. 1 (Summary Plat)

John Mangiamelli, OCD, explained that the proposed Cogdill Addition No. 1 subdivision is a two lot split. The parent parcel is a total of 1.68 acres; Lot 38A will be .894 acre and Lot 38B will be .783 acre. The proposed subdivision is located on the southwest corner of 7th Street and Hiberta. The Missoula Urban Comprehensive Plan recommends the land within this subdivision be developed at a maximum density of 2 dwelling units per acre. The area is currently zoned ZD 9.

He said there are presently two houses on a single lot. The subdivision will split this lot into two separate lots. The houses and the driveways currently exist and none of this will be changed. In the Findings of Fact, Doug Kikkert, Environmental Health Specialist states, "All sewer and water systems have been approved. Therefore, no problems are expected with lifting of sanitation restrictions by our department or the state."

The Office of Community Development staff recommends Cogdill Addition No. 1 be approved, subject to the conditions 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. The Missoula Irrigation District shall approve the easement locations and any construction plans for the irrigation ditch.
4. The irrigation ditch culvert shall be capable of supporting 40,000 pounds for fire apparatus. Plans shall be approved by the County Surveyor.
5. All driveways accessing a paved road shall be paved a minimum of 20 feet back from the roadway.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve Cogdill Addition No. 1 Summary Plat, based on the findings of fact 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 Missoula Irrigation District shall approve the easement locations and any construction plans for the irrigation ditch.
4. The irrigation ditch culvert shall be capable of supporting 40,000 pounds for fire apparatus. Plans shall be approved by the County Surveyor.
5. All driveways accessing a paved road shall be paved a minimum of 20 feet back from the roadway.

JANUARY 8, 1992 (cont.)

The motion carried on a vote of 3-0.

CONSIDERATION OF: Hicks-Brester Addition No. 1 (Summary Plat)

John Mangiamelli, OCD, explained that the proposed Hicks-Brester Addition No. 1 Subdivision is a two lot split. The parent parcel is a total of 2.38 acres; Lot 30A will be 1.13 acres and will be used for a doctor's office. Lot 30B will be 1.25 acres and will be developed into five four-plexes. The proposed subdivision is located on the east side of Reserve Street just north of North Avenue. The Missoula Urban Comprehensive Plan recommends that Lot 30A be developed as a mixed commercial use. It does not suggest a use for lot 30B. Lot 30A is zoned SD-2 and Lot 30B is zoned CR-2 with a maximum density of 16 dwelling units per acre.

He said in the Findings of Fact under Sewer System, Bruce Bender, City Engineer states, "In accordance with the City of Missoula master sewer plan for the Reserve Street area, the sanitary sewer main is planned to be extended down all of Lot 30B, and the City would request that a 20-foot public sanitary sewer main easement be platted on Lot 30B as is shown on Lot 30A."

The Office of Community Development staff, based on the findings of fact, recommends that Hicks-Brester Addition No. 1 be approved, 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 20' public sanitary sewer main easement shall be platted on Lot 30B as is shown on Lot 30A.
4. The developer shall be required to install a fire hydrant, the location of which shall be approved by Rural Fire.

He said Rural Fire is suggesting the fire hydrant be located on the corner of North and Clark Street. He said the developer has requested that the fire hydrant be installed at the time Lot 30B is developed.

Greg Martinsen, Martinsen Surveys, said he would like to request that the fire hydrant be installed by the person who buys the lot and develops it. They will go through an extensive review and point system in the Reserve Street corridor, and it will be taken care of then.

Barbara Evans asked if it was standard for the purchaser/developer of a lot to be required to install the fire hydrant or is it traditionally done by the owner of the lot who wants to separate it?

Barb Martens, OCD, said that generally OCD required the developer to have the hydrant locations approved by the Rural Fire District. It has always been a requirement of the developer of the subdivision to meet that requirement.

A discussion ensued relative to tracking the requirement to put in the fire hydrant and who would put it in.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve Hicks-Brester Addition No. 1 Summary Plat based on the findings of fact 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 20' public sanitary sewer main easement shall be platted on Lot 30B as is shown on Lot 30A.
4. The developer shall be required to install a fire hydrant the location of which shall be approved by Rural Fire.

A discussion ensued relative to who the developer would be; the owner of the property, or the purchaser/developer.

Note: Condition #4 - the "developer" that is required to install a fire hydrant at said property is to be understood as being Mr. Martinsen's client, Pauline Hicks and Jean Brester. The motion carried on a vote of 3-0.

JANUARY 8, 1992 (cont.)

HEARING: (COS REVIEW) Use of Agricultural Exemption (Blize) COS #2069

Marnie McClain, Deputy County Attorney, explained that Dick Ainsworth has submitted an affidavit for two agricultural exemptions on behalf of Elly Blize. She proposes to create two exemption designations. She intends to sell one parcel to Lloyd Twite who will subsequently develop it into a nine hole golf course. This property in question is located along the north side of Lower Miller Creek Road and is entirely within the flood plain of the Bitterroot River.

Ms. Blize has not previously used any exemptions to the Subdivision and Platting Act. Lloyd and Mary Twite used the relocation of common boundary exemption in 1981.

Mr. Ainsworth also proposes to do three boundary relocations which will enable Lloyd Twite to obtain some additional property to use in the golf course. The boundary relocations can be approved administratively.

Chairman Barbara Evans opened the hearing to public comment.

Dick Ainsworth, Professional Consultants, Inc., representing Elly Blize and Lloyd Twite, showed from an aerial photograph the subject property. He said no homes are to be built on the property, and an agricultural exemption seemed the best method. It would not be an occasional sale because it wouldn't get approved by the Health Department. Elly Blize is requesting an agricultural covenant for the property. A portion of the property would then be sold to Lloyd Twite and the property would be conveyed to him and he would be subject to the agricultural covenant.

A discussion ensued relative to the land use and taxes. When the land use changes, the developer would again have to go before the Board to revoke the agricultural exemption.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the request for the creation of two Agricultural Exemptions on behalf of Elly Blize. It is understood that one of the exemptions will be part of the golf course and it is acceptable in the limits of the agricultural exemption. The motion carried on a vote of 3-0.

PUBLIC COMMENT: Opposition to Ross Electric

Lee Bridges, spokesperson for MCAR (Media Campaign Against Ross Electric), asked the Board to keep all matters of Ross Electric open to public hearings allowing the public to have a voice in the decision-making process. She said it involves Missoula's health, lifestyle and property values. She asked the Board to deny any zoning requests made by Ross Electric.

Barbara Evans stated the Board of County Commissioners does not grant zoning variance requests. The Board of Adjustments makes those decisions and it is done in public.

Vickie Beebee, concerned resident and homeowner of the area, presented a petition signed by approximately 1,360 residents of Missoula. She asked the Board to do what they could with the petition.

The petition reads as follows:

We, the undersigned, believe Ross Electric Co. to be a threat to our health and our children's future in Montana.

Ross Electric Co. has been fined nearly \$200,000 for violating hazardous waste and air quality regulations in Washington State. Ross Electric Co. was fined for allegedly operating an incinerator without a temperature recorder, not labeling containers that stored hazardous waste materials and dumping dangerous waste into a landfill.

We do not trust their manner of business and are not willing to risk contamination of Missoula Valley. We do not want Ross Electric in our county burning toxic waste.

There being no further business to come before the Board, the meeting was adjourned at 2:10 p.m.

JANUARY 9, 1992


The Board of County Commissioners did not meet in regular session. Commissioner Stevens was out of the office January 9th and 10th; and Commissioner Dussault was in Helena attending a meeting of the Executive Committee of the Montana Tax Reform Coalition.

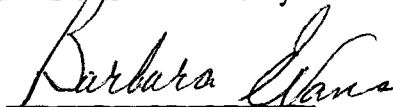
JANUARY 10, 1992

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

Monthly Report

Chairman Evans 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 December 20, 1991.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

JANUARY 13, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Report of Sheriff, Douglas W. Chase, showing items of fees and other collections on account of Civil Business in Missoula County for month ending December 31, 1991.

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 Shannon Environmental Management, an independent contractor, for the purpose of collecting data and conducting the 1992 Right to Know Contract, as per the items and terms set forth and under the supervision of the DES Coordinator, Orin Olsgaard, commencing January 1, 1992, through September 30, 1992, for a total payment not to exceed \$7,000.00.

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and Warranty Deed from Missoula County for the sale of Lot 4 of Michelle Addition, a platted subdivision of Missoula County to Mark G. Muir. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Resolution No. 92-004

The Board of County Commissioners signed Resolution No. 92-004, a Budget Amendment for FY'92 for Capital Improvements, including the following expenditure and revenue, and adopting it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>Budget</u>
Computer Network 2410-250-414401-929	\$835.00
<u>Description of Revenue</u>	<u>Revenue</u>
Youth Court Grant Support 2410-250-383012	\$835.00

JANUARY 9, 1992 (cont.)

Other items included:

- 1) the Commissioners appointed Gary Ardeson to a three-year term as a citizen member on the newly created Sales Assessment Advisory Board;
- 2) the Commissioners authorized Jim Dopp, Operations Officer, to hire Attorney Zane Sullivan to do a quiet title on the Hillview Heights #7 property; and
- 3) the election for the Seeley Lake Sewer District was set for May 19th, contingent upon approval by the residents of Seeley Lake.

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

* * * * *

JANUARY 14, 1992

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 considered:

The Commissioners made the following board appointments:

- 1) Marlys Albert was appointed to a two-year term on the City-County Animal Control Board through December 31, 1992; and
- 2) Brenda Oreskovich was appointed to a three-year term as the citizen voting member of the 9-1-1 Advisory Board through December 31, 1994.

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

* * * * *

JANUARY 15, 1992

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 14, 1992, pages 4-30, with a grand total of \$45,531.70. 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:

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Warranty Deed, Settlement Statement and documents to complete the sale of Lot 2 of Parcel F of Hillside Homes Addition No. 1 of Supplemental Plat A., City of Missoula - Book 11, page 25 to Jeffrey P. Sholty. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Other items included:

- 1) the Community Services Block Grant presented by Jim Morton, Director of the District XI Human Resource Council, was approved by the Commissioners; and
- 2) the Surveyor's request to transfer funds to purchase land in Lolo was approved.

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

JANUARY 15, 1992 (cont.)

WEEKLY PUBLIC MEETING

Chairman Barbara Evans called the meeting to order at 1:35 p.m. Also present were Commissioners Ann Mary Dussault and Janet Stevens.

DETERMINATION OF: O'Brien Creek Zoning Protest

Michael Sehestedt, Deputy County Attorney, explained that the Board of County Commissioners adopted Resolution 91-105, proposing rezoning certain areas in the O'Brien Creek vicinity, PUD. There are three different zoning districts in the area. Under the statute change, zoning of an area may be defeated by 40% or greater protest of the affected residents. The protesters have 30 days from the date of the first publication of the notice of the resolution of the intent to file a zoning protest. The Board of County Commissioners have received a Certification from Vickie M. Zeier, Deputy Clerk & Recorder dated January 7, 1992, stating the following:

I, Vickie M. Zeier, Deputy Clerk and Recorder of Missoula County, Montana, hereby certify that the attached petition protesting Resolution No. 91-105, pertaining to rezoning of the O'Brien Creek Meadow property, contains the necessary signatures of the owners of 40% or more of Zoning District C-A3. The petition contains 63 signatures of the 113 property owners in Zoning District C-A3.

Mike Sehestedt explained the effect of this protest means that the developers may not proceed with proposed rezoning. There cannot be any rezoning in that district for one year.

Barbara Evans explained that for the record, the zoning protest had been successful and the rezoning will not occur. Wally Congdon, representing the developer John Diddel, has said they will go ahead with a project based on the current zoning of the upper piece with 52 units allowed. There will be no developer contribution of \$35,000 for improvements to Blue Mountain Road.

CONSIDERATION OF: Grassland Acres (Summary Plat)

John Mangiamelli, Office of Community Development, explained that Grassland Acres is a proposed five (5) lot, single family subdivision. Each lot is approximately 1 acre. The total project covers 8.41 acres. The proposed subdivision is located north of Mullan Road directly across from Sunset Memorial Gardens. All lots will access onto interior road-ways. Grassland Acres Summary Plat is the precursor of a future Grassland Acres Preliminary Plat that proposes approximately 80 one acre lots on 100 acres. The owner of the property, Betty Deschamps, is using this summary plat to test the market and gather capital. The information and money gained in undertaking this project will be used to develop and finance the remainder of the project.

He referred to the Findings of Fact, Criterion No. 1. The zoning is CRR-2 that suggests a maximum density of 2 dwelling units per acre. The Master Plan suggests that this area be developed at two dwelling units per acre. Each lot will be served by individual water and sewer systems. Criterion No. 4, "Parks and Recreation" recommends that rather than cash in lieu of park land, common area be dedicated as per the request of the developer. He stated that Bill Lindstrom of Rural Fire said in a phone conversation that "this subdivision is not within the fire protection district." The OCD staff recommends that the developer petition for annexation into the fire protection district.

He stated that Criterion No. 6--Effects on the Natural Vegetation, the Comp Plan and zoning for the area both suggest a density of 2 dwelling units per acre. The OCD staff would like to see this area developed consistent with what is found in the zoning ordinance and what is found in the Master Plan. However, due to the fact there isn't sewer and water at this location at the present time, the developer will have to create one acre lots to meet the concern of environmental health. If in the future water and sewer does become available, the OCD staff will encourage a higher density on this property.

The Community Development staff recommended that Grassland Acres be approved based on the Findings of Fact 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 developer shall establish a berm along the southwest boundary of Lot 1. The covenants shall state that the berm shall be landscaped by the lot owner at the time of construction. Landscaping the berm with native vegetation is encouraged.

JANUARY 15, 1992 (cont.)

4. All driveways accessing a paved road shall be paved a minimum of 20 feet back from the roadway. Such provision shall be made in the covenants or at the time of construction.
5. Road and drainage plans shall be approved by the County Surveyor.
6. Approach permits are required for all lots.
7. There shall be a one foot no access strip on Lot 1 along Mullan Road. This shall be shown on the face of the plat. Lot 1 shall access onto Country Crest Lane.
8. The covenants shall include a sentence in Section 27 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 to 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.
9. All lot purchasers shall be informed of any adverse soil characteristics that would require special design or construction standards. The covenants shall state:
 1. Notation for adequate compaction of foundation areas including utility trenches under foundations and driveways.
 2. Notation for suitable compacted backfill around foundation.
 3. Demonstrate positive yard grade away from all building foundations, porches, and driveways to insure drainage away from buildings and driveways.
 4. All gutters and downspouts drain away from foundations and driveways.
 5. All foundations be designed for depth and bearing in accordance with the Uniform Building Code.
 6. That all plans submitted to the Building Inspector for permits contain the following notation with the foundation plan:

Based on Soil Conservation Service data, the unified soil classification is "CL", clays. Soils have a moderate plasticity index which ranges from 10-25. Soils are characterized by moderate shrink-swell potential and low soil strength.
10. Temporary cul-de-sacs shall be constructed on Buttercup Court.
11. The developer shall petition for annexation and be annexed into the rural fire protection district.

Nick Kaufman, land use planner for Sorenson & Company, speaking on behalf of the Deschamps family, gave some history relative to the ownership of the property. The Deschamps family would like to do one or two summary plats to generate the income so that the remainder of the property can be master planned and come through as a major subdivision. He said the developers concur with the staff report as presented. However, Criterion No. 4 under Parks and Recreation the OCD staff "encourages the homeowner's association to re-establish and maintain native vegetation in all common area dedicated with this Summary Plat and all other phases of the Master Plan." Staff encourages this so that at least the open space in this subdivision will remain in character with the landscape, and the original condition of the land and natural vegetation and habitat for wildlife can be restored."

He said the developers envision the common area to have grass with trail systems, etc., with smaller developed park areas. The developers never envisioned the common areas returning to the native vegetation with this particular subdivision. When reading the condition, the intent seems to be to return the common area to the native vegetation. This is not the intent of the developers.

John Mangiamelli stated that it was not the staff's intent to try to curtail the development of open space or to disallow any improvements that may be desired. Whatever land that is not being developed, the OCD staff would like to see native vegetation re-established in those areas.

A general discussion ensued relative to Criterion No. 4 and how it is to be interpreted. The staff is encouraging that the vegetation of the undeveloped land be returned to its' native state.

JANUARY 15, 1992 (cont.)

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve Grassland Acres Summary Plat subject to the conditions contained in the staff report 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. The developer shall establish a berm along the southwest boundary of Lot 1. The covenants shall state that the berm shall be landscaped by the lot owner at the time of construction. Landscaping the berm with native vegetation is encouraged.
4. All driveways accessing a paved road shall be paved a minimum of 20 feet back from the roadway. Such provision shall be made in the covenants or at the time of construction.
5. Road and drainage plans shall be approved by the County Surveyor.
6. Approach permits are required for all lots.
7. There shall be a one foot no access strip on Lot 1 along Mullan Road. This shall be shown on the face of the plat. Lot 1 shall access onto Country Crest Lane.
8. The covenants shall include a sentence in Section 27 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 to 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.
9. All lot purchasers shall be informed of any adverse soil characteristics that would require special design or construction standards. The covenants shall state:
 1. Notation for adequate compaction of foundation areas including utility trenches under foundations and driveways.
 2. Notation for suitable compacted backfill around foundation.
 3. Demonstrate positive yard grade away from all building foundations, porches, and driveways to insure drainage away from buildings and driveways.
 4. All gutters and downspouts drain away from foundations and driveways.
 5. All foundations be designed for depth and bearing in accordance with the Uniform Building Code.
 6. That all plans submitted to the Building Inspector for permits contain the following notation with the foundation plan:

Based on Soil Conservation Service data, the unified soil classification is "CL", clays. Soils have a moderate plasticity index which ranges from 10-25. Soils are characterized by moderate shrink-swell potential and low soil strength.
10. Temporary cul-de-sacs shall be constructed on Buttercup Court.
11. The developer shall petition for annexation and be annexed into the rural fire protection district.

The motion carried on a vote of 3-0.

HEARING: Use of Family Transfer (Julia Taggart) Parcels A & B COS 2332

Marnie McClain, Deputy County Attorney, explained that Eli & Associates have submitted an affidavit on behalf of Julia M. Taggart for a family transfer. The same survey would also relocate a common boundary and an affidavit has been submitted on behalf of Alfred R. Schendel. Ms. Taggart used the occasional sale exemption in 1980 to create parcel A, which is presently owned by Mr. Schendel would acquire approximately one acre from Ms. Taggart as a result of the boundary relocation. Mr. Schendel has not previously used any exemptions to the Subdivision and Platting Act. Ms. Taggart proposes to

JANUARY 15, 1992 (cont.)

transfer a three acre parcel to her adult daughter. A third parcel of approximately 2.6 acres would remain.

A discussion ensued relative to the transfer and the history of the property.

Janet Stevens moved and Barbara Evans seconded the motion to approve the certificate of survey 2332 in that it does not appear to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-1; with Ann Mary Dussault voting against the motion.

HEARING: Use of Family Transfer (Pamela S. Whitcomb) Tract A, COS 1418

Marnie McClain, Deputy County Attorney, explained that Eli and Associates has submitted an affidavit on behalf of Pamela S. (King) Whitcomb for a family transfer exemption. Ms. Whitcomb proposes to divide a twenty acre parcel into a fifteen and a five acre parcel. The five acre parcel would be deeded to her 20-year old son. According to the records kept by the Missoula County Surveyor's office, Ms. Whitcomb has not previously used any exemptions to the Subdivision and Platting Act.

This parcel was created in 1978 by R.D. and M.E. Kreis when 60 acres was divided into three 20 acre parcels by COS 1418. In 1984, Duane Reynolds used an occasional sale exemption to create 2 parcels on a tract contiguous to that proposed for division by Ms. Whitcomb.

Andy Fisher of Eli & Associates, explained that Pamela Whitcomb lives on the property. She is going to sell her house and 15 acres. She will give the remaining acreage to her son.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the proposal by Pamela Whitcomb to divide the twenty acre parcel described as Tract A, COS 1418, into a fifteen and a five acre family transfer given that she has no history of prior use of exemptions and there does not appear to be any attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

HEARING: Use of Occasional Sale (Jolene & Andy Sherry) Lot 1, COS 3611

Marnie McClain explained that Eli and Associates have submitted an affidavit for an occasional sale exemption on behalf of Jolene and Andy Sherry. The Sherrys' own a twenty acre parcel, described as Lot 1, COS 3611, which they propose to split into a fifteen acre and a five acre parcel. Lolene and Andy Sherry have not previously used the exemptions to the Subdivision and Platting Act to divide property in Missoula County. The 20 acre parcel which they are dividing was created in 1988 by Western Financial Inc. when 200 acres were subdivided into ten 20 acre parcels (COS 3611). According to the Secretary of State's office, the officers of Western Financial Inc. are David Morganroth, Larry Westover, Earl Morganroth and David Morganroth.

A general discussion ensued relative to the intent of Andy Fisher's clients, Jolene and Andy Sherry.

Ann Mary Dussault moved and Janet Stevens seconded the motion to postpone the decision for one week and ask that the clients appear to explain the intent of this sale. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the meeting was adjourned at 2:10 p.m.

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JANUARY 16, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was out of the office all day January 16th and 17th.

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond naming Electronic Parts Co. as principal for warrant #30157 dated November 13, 1991, issued on the Clerk of District Court Trust fund in the amount of \$45.07 now unable to be found.

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JANUARY 17, 1992

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

Wendy Cromwell
Wendy Cromwell, Clerk & Recorder

Barbara Evans
Barbara Evans, Chairman

JANUARY 20, 1992

The Courthouse was closed for the Martin Luther King, Jr. Day holiday.

JANUARY 21, 1992

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

Audit List

Commissioners Evans and Stevens signed the Audit List, dated January 21, 1992, pages 4-37, with a grand total of \$267,457.56. 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:

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Settlement Statement and Warranty Deed to P. David Edgell for the sale of Lot 44 of Grantland 13. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Payroll Transmittal Sheet for Pay Period #25 (11/24/91 - 12/07/91) with a total Missoula County Payroll of \$398,211.12. The Transmittal Sheet was returned to the Auditor's Office.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Payroll Transmittal Sheet for Pay Period #26 (12/08/91 - 12/21/91) with a total Missoula County Payroll of \$383,676.92. The Transmittal Sheet was returned to the Auditor's Office.

Contract and Addendum

Chairman Evans signed a Contract and an Addendum to the Contract between Missoula County and James Hoffmann and Associates, Architects, regarding the provision of architectural services for the construction of a new operations center for Larchmont Golf Course together with removal of existing structures, and attendant utility and site work, as per the terms set forth, for a total fixed fee of \$46,750.00. Also signed was an Addendum to the Contract for the purpose of providing the Architect a site map of the Larchmont area in the vicinity of the operations center and the westerly property line of the golf course offered by Professional Consultants, Inc., which increases the total fee by \$2,400.00.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1991, between Missoula County and Montanans for Quality Television for the purpose of sponsoring the "Animal of the Mind" series project, as per the terms set forth, for a total amount of \$10,000.00, contingent upon receipt of funds for Montana Arts Council Cultural and Aesthetics Grant, Number 376, by Missoula County, for a period of 24 months terminating on June 30, 1993.

JANUARY 21, 1992 (cont.)Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1991, between Missoula County and the City of Missoula, whereby the City will purchase advocacy services for victims of crime and education/training services regarding crime victims' needs and services from the County through its Crime Victims' Advocate, as per the terms set forth, for a total cash payment in the amount of \$2,721.00 and in-kind provided by the City amounting to \$580.00, for the period through June 30, 1992, and is contingent upon receipt of grant funds from the Montana Board of Crime Control by Missoula County.

Closing Documents for INTERCAP Loan

Chairman Evans signed the Closing Documents for the County to enter into a loan from the Department of Commerce, Board of Investments, in the amount of \$66,768.00 on January 31, 1992, for the purchase of vehicles for the Sheriff's Department as described on the Installment Purchase Contract. The Documents were returned to John DeVore, Administrative Officer, for further handling.

Other items included:

- 1) the Commissioners appointed Natalie Carlson to a three-year term on the County Tax Appeal Board through December 31, 1994;
- 2) the Commissioners approved a request from the Office of Community Development, authorizing them to prepare application to the Soil Conservation Service to perform a detailed floodplain study for Missoula County; and
- 3) the Commissioners agreed that the residents should initiate an RSID for the funding of improvements for Blue Mountain Road, which was lost because of the successful O'Brien Creek zoning protest.

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

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JANUARY 22, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was on vacation from January 22nd through January 24th.

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 Keith W. Anderson for the purchase of Lots 5, 6, and 7 of Grantland #13 for a total purchase price of \$48,000.00, contingent upon the special provisions set forth in the Agreement. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Plat

The Board of County Commissioners signed the Plat for Linda Vista Sixth Supplement & the Amended Plat of Lot 10, Block 2, Linda Vista Third Supplement, a rural residential subdivision located in Section 12, T. 12 N., R. 20 W., PMM, Missoula County, a total of 3.49 acres, with the owner/developer being the Twite Family Partnership, c/o Lloyd Twite.

Resolution No. 92-005

The Board of County Commissioners signed Resolution No. 92-005, a Resolution of Intention to Create RSID #443 for the purpose of constructing a sewer main extension in the Carline, Butte Addition, Missoula County, setting the hearing date for February 19, 1992, at 1:30 p.m.

Approval of Certificate of Survey Covenant

The Board of County Commissioners signed approval of a Certificate of Survey to show two tracts of land as agricultural exemptions and to show the relocation of common boundaries located in the S 1/2

JANUARY 22, 1992 (cont.)

of Section 1, T. 12 N., R. 20 W., PMM, and the covenant of the owners, Elly Blize, Lloyd A. Twite Family Partnership, Norman F. and Doris A. Balko, and George L. and Frances M. Reynolds, who declare that the divided land will be used exclusively for agricultural purposes and that the covenants shall run with the land and be revocable only by mutual consent of the governing body and the property landowners.

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

WEEKLY PUBLIC MEETING

Chairman Barbara Evans called the meeting to order at 1:40 p.m. Also present was Commissioner Ann Mary Dussault.

HEARING: Clark Fork Estates Phase IV (Preliminary Plat)

John Mangiamelli, Office of Community Development (OCD), explained that Clark Fork Estates Phase 4 is located in the SW 1/4 of Section 14, T13N, R20W. It lies south of Mullan Road and east of Sunset Memorial Gardens. Eli and Associates, representing Clark Fork Estates, Inc., propose eight (8) one-acre single-family lots on a total of 8.8 acres. Phase 4 is the final phase of the Clark Fork Estates master development plan. The development will continue south on Frey Lane and end just north of the Clark Fork River Floodplain.

The Comp Plan designates this area as suburban residential which is up to a maximum density of 2 dwelling units per acre. However the local zoning is CRR-1 which one dwelling unit per acre. The Soil Conservation Services has designated this area as such a blend that is of agricultural importance if irrigated.

This property is located adjacent to the 100-year flood plain or the riparian area for the Clark Fork River. Special care should be taken with this area, according to the Comp Plan.

The Office of Community Development staff recommends that Clark Fork Estates Phase 4 Preliminary Plat be approved, based on the Findings of Fact and subject to the conditions as follows:

1. Sanitary restrictions be lifted by the State and Local Health authorities.
2. Grading, drainage, erosion control, and streets plans shall be approved by the County Surveyor's Office.
3. The requirement that driveway approaches shall be paved for a length of at least 20' back from the road shall be provided for in the covenants or at the time of construction.
4. The developer shall inform all lot buyers of the soil characteristics described by the Soil Conservation Service as: "The main limitations for homesite development on this soil are low strengths, shrink-swell potential, very low permeability, and dustiness. The possibility of foundation failure because of low soil strength can be minimized by designing oversized footings and preparing a strong load supporting base."
5. All appropriate easements shall be shown on the face of the plat.
6. The developer shall inform all lot buyers of the necessity for keeping their property weed-free, and provide copies of information made available to them by the Planning Department.
7. Lot buyers shall receive a copy of the "Living With Wildlife" brochure.
8. The developers, Opal Frey and Amy O'Herren shall discuss the opportunity for placing a conservation or agricultural easement on their remaining land. And to discuss with the SCS, Department of Fish, Wildlife and Parks, and Rural Planning the opportunity to devise a management plan for the riparian area.
9. Access to any additional lots by the easement at the end of the cul-de-sac shall be approved by the County Surveyor.

Chairman Barbara Evans opened the hearing to public comment.

Andy Fisher, Eli & Associates, stated that the original Condition No. 4, before it was changed at the last Planning Board meeting, was the same condition that Phases I, II and III were subject to. He

JANUARY 22, 1992 (cont.)

requested that the Board approve the original Condition No. 4 instead of the amended Condition No. 4. The original Condition No. 4 reads: The developer shall inform all lot buyers of the soil characteristics described by the Soil Conservation Service as "the main limitations for homesite development on this soil are low strengths, shrink-swell potential, very low permeability, and dustiness. The possibility of foundation failure because of low soil strength can be minimized by designing oversized footings and preparing a strong load supporting base." The additional language was requested by the Planning Board. The developer feels this additional language is a little scary to potential lot buyers. He said they also feel there isn't a need to bring in questions of foundation ability or strength. The foundations are inspected by the building inspector, the plans and foundation designs must be submitted, so any problems are taken care of at this time.

Colleen Dowdell of Worden, Thane & Haines, representing the developers, said that they objected to Condition No. 8 being included in the subdivision requirements. The covenants require a setback of 30 feet from the property line or the easement. A 90 foot area is required anyway. The developers feel the problem is solved with the covenants and the easements as they stand.

She requested Condition No. 9 be eliminated, for the reason that 1) it was not required in the prior phases, 2) the remaining property that is undeveloped is primarily in the floodplain and not capable of being developed at this time, or as long as this designation exists.

A discussion ensued relative to Condition No. 10 in the original recommendation now replaced by Condition No. 9. The developers would like to make the language in this condition clearer.

Horace Brown, County Surveyor, said that in several of the areas, there have been subdivisions developed. One person would buy a lot and start developing the land behind the subdivision and then use the improvements within the subdivision and using an entrance through the subdivision in order to access a County road. This was a wide-spread practice at this time, and did not go through a public hearing. Because of this, access was limited to the person who lived on or owned the land. They could not subdivide the property to increase the number of people that could use the easement. If the developer wants to use the easement other than for the subdivision, then they need to come back with an amended subdivision, or add it to the subdivision at the time of the proposal.

Barbara Evans asked if he was saying he didn't oppose one more house on this property.

Horace Brown said he didn't oppose one more house if there were no more splits of land to go with it. It has to be one land owner.

Colleen Dowdell said she would like to see it limited to two lots with two accesses instead of leaving it up to the County Surveyor. The property may be split later on to give to their children.

A discussion ensued relative to access and if additional lots outside the subdivision could be allowed to use the accesses.

Barb Martens, OCD suggested a ten-lot subdivision instead of the 8-lot subdivision proposed so that a 60-foot easement could be provided at the end of the cul-de-sac. If more development should go in, the cul-de-sac could be extended.

Colleen Dowdell said the developer is not proposing a ten-lot subdivision, rather an eight-lot subdivision with future development for the Frey children. They want their children to have the ability to build on this property, which is a division of property that isn't subject to subdivision. Usually a road accessing two parcels does not trigger a subdivision or County road standards.

Ann Mary Dussault stated that the purpose is to allow emergency vehicles access to the properties. There is no problem with the intent to give the property to the children. The Board does not want access through a narrow easement where emergency vehicles need to get through from the cul-de-sac.

A discussion ensued relative to access and easement requirements. It was agreed that a 60-foot easement be required. This requirement answers the question of emergency access and open view and visibility of the riparian zone.

John Mangiamelli said with the 60-foot easement, there is an additional 30 feet on each side consisting of setback from the easement line, this being a total of 120 feet of no-build zone.

Ann Mary Dussault moved and Barbara Evans seconded the motion to grant approval for the Clark Fork Estates IV Preliminary Plat based on the Findings of Fact and the following conditions:

JANUARY 22, 1992 (cont.)

1. Sanitary restrictions be lifted by the State and Local Health authorities.
2. Grading, drainage, erosion control, and streets plans shall be approved by the County Surveyor's Office.
3. The requirement that driveway approaches shall be paved for a length of at least 20' back from the road shall be provided for in the covenants or at the time of construction.
4. The developer shall inform all lot buyers of any soil problems that may exist and would require special design or construction standards.
5. All appropriate easements shall be shown on the face of the plat.
6. The developer shall inform all lot buyers of the necessity for keeping their property weed-free, and provide copies of information made available to them by the Planning Department.
7. Lot buyers shall receive a copy of the "Living With Wildlife" brochure.
8. The developers, Opal Frey and Amy O'Herren are encouraged to discuss the opportunity for placing a conservation or agricultural easement on their remaining land. And to discuss with the SCS, Department of Fish, Wildlife and Parks, and Rural Planning the opportunity to devise a management plan for the riparian area.
9. A 60-foot easement from the end of the cul-de-sac to the end of the subdivision property line will be established.
10. Access to any more than 2 lots by the easement at the end of the cul-de-sac shall be approved by the County Surveyor.

The motion carried on a vote of 2-0.

CONTINUATION OF HEARING & DECISION ON (COS REVIEW): Use of Occasional Sale (Jolene and Andy Sherry) Lot 1, COS 3611

Marnie McClain explained that Eli and Associates have submitted an affidavit for an occasional sale exemption on behalf of Jolene and Andy Sherry. The Sherrys own a twenty acre parcel, described as Lot 1, COS 3611, which they propose to split into a fifteen acre and a five acre parcel. Jolene and Andy Sherry have not previously used the exemptions to the Subdivision and Platting Act to divide property in Missoula County. The 20-acre parcel which they are dividing was created in 1988 by Western Financial, Inc. when 200 acres were subdivided into ten 20-acre parcels (COS 3611). According to the Secretary of State's office, the officers of Western Financial, Inc. are David Morganroth, Larry Westover, Earl Morganroth and David Morganroth.

Andy Fisher, Eli & Associates, explained the Sherrys live on the property. The Sherrys wish to divide the property and sell five acres to defray the cost of their house and the original purchase of the property as well as make the property more manageable.

Andy Sherry, owner of the subject property, said he has owned the land since June or July of 1991.

Barbara Evans stated the way she personally looked at this situation is that State law allows a property-owner one land split per year unless the Board determines there is an attempt to evade the Subdivision Law. If the history of the land versus the history of the property owners was looked at, it would be fairly clear the land splits are evading the subdivision act. She said that Mr. Sherry now gets caught at the end of the process with a piece of land he wants to split and that he feels justified and legally has a right to do. The Board is now caught in a quandary of whether to hold Mr. Sherry responsible for the previous history of all the other parcels around it, or whether to allow the split.

Andy Sherry asked about the difference between a land split and a subdivision.

Barbara Evans explained that State law allows people to split land down to 20-acre tracts without review or conditions being put on by the local government. Anything under a twenty-acre split has to come to the Commissioners to approve the split. A subdivision requires specific roads, specific access, community sewer; things that will be of benefit to the buyers of the property. Mr. Sherry's property could be split into 20 lots with no benefits or amenities for the buyers.

JANUARY 22, 1992 (cont.)

A general discussion ensued relative to the splitting of land and the consequences of this action.

Andy Sherry said his intention when he bought the land was to split the 20 acres into a 15-acre and a 5-acre parcel. He said he wanted to sell the 5-acre parcel to off-set the cost of the land and the construction of his house.

Ann Mary Dussault asked Mr. Sherry if and when he ever sold the fifteen acres, to promise to tell the people who buy the property that they cannot divide it unless they go through the subdivision process.

Michael Sehestedt, Deputy County Attorney, offered the possibility of requiring a statement on the face of the COS to state that any subsequent division for either of these parcels be subject to subdivision review.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the request for an occasional sale of Lot 1 COS No. 3611 by Andy and Jolene Sherry, finding no attempt to evade the Subdivision Act, on the condition that a statement be placed on the face of the plat indicating that any further division of either the five-acre remainder or the original fifteen-acre parcel shall be reviewed under the Subdivision Act. The motion carried on a vote of 2-0.

Barbara Evans asked that either Marnie McClain or Michael Sehestedt to write up a policy statement to be included in the policies for Certificate of Surveys for future reference.

The Public Meeting was recessed at 2:35 p.m. to ensure no moneys had been wired to redeem delinquent property relative to the Tax Deed Sale.

The Public Meeting was called to order at 2:45 p.m.

SALE OF TAX DEED PROPERTY

Vickie Zeier, Recording Supervisor in the Clerk and Recorder's office, explained that the tax deed auction for the 1987 36-month and 1988 24-month delinquencies has been set for January 22, 1992, by Resolution No. 92-003. She submitted a copy of the Notice of Sale of Tax Deed Land with the fair market value for each parcel as determined by Jim Fairbanks, Appraisal Office. No sale shall be made for a price less than the fair market value at the auction per M.C.A. 7-8-2301.

The Tax Deed Land Sale was published in the Missoulian for two consecutive Sundays and posted in three places as required by M.C.A. 7-8-2302.

She said it should also be noted that a copy of the tax deed and a courtesy letter was mailed to all interested parties on January 7, 1992, stating that they had the right to redeem the property prior to the auction.

She said this was the last step in the tax deed process. Notification was first sent to the property owner or interested parties on July 26, 1991. The 60-day redemption period ended September 25th and the following parcels still remain unredeemed at this time.

The property offered for sale is as follows:

Description	Fair Market Value	
Union--Lot 24 Blk 13 Pt Vac Alley & St	\$22,000.00	NO BID
Double Arrow Ranch-Phase IV--Lot 234	8,000.00	NO BID
Double Arrow Ranch Phase IV Lot 256	4,300.00	REDEEMED
Double Arrow Ranch Phase IV Lot 257	3,000.00	REDEEMED
Frenchtown-Frac of Lot 1 Blk 2 Pt Vac St	1,900.00	NO BID
W. Riverside #2--Lot 4	19,000.00	NO BID
Gleneagle at Grantland -- Lot 96	2,700.00	NO BID
Tract 8C 1 in W 1/2 NE 1/4 Plat A1 10 1		
36-14-20-6AC	19,000.00	POSTPONE
In SW 1/4 SW 1/4 N of H/W Plat S		
24-13-19 6AC	1,000.00	NO BID
Tract 6A 2 in NE 1/4 NW 1/4 Plat B1 6'		
36-14-20 4.01 AC	17,500.00	REDEEMED
Road in NE 1/4 32-14-19 3.41 AC & In W 1/2		
33-14-19 5.82AC	9,200.00	NO BID

JANUARY 22, 1992 (cont.)

Barbara Evans opened the bidding process to anyone who wished to bid according to the fair market price. There being no bidders, the auction was closed.

Michael Sehestedt said the property will again be noticed for auction in two weeks at fair market value. If there are no bidders at this auction, the County is free to seek a private sale. After two weeks, the properties may be sold for as low as 70 percent of the fair market value if this is what it takes to sell the property.

PUBLIC COMMENT

Mr. Dishman, of 11720 Lewis & Clark Drive, Lolo, Montana, stated that the 1/10 of a mile of Lewis & Clark Drive that belongs to the County is a health hazard, and the residents want the Road paved. He presented to the Board a petition with approximately 150 signatures. He asked how the paving would be funded.

Ann Mary Dussault said the County no longer has money to do miscellaneous paving projects. The County will work with the local residents to create a RSID.

Barbara Evans said she thought there might be one possibility that might work out. There is the potential that there will be a highway project in Lolo. At some point they may have some extra blacktop they may have to lay elsewhere. She said she couldn't promise anything; it is merely a possibility.

There being no further business to come before the Board, the meeting was adjourned at 2:55 p.m.

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JANUARY 23, 1992

The Board of County Commissioners did not meet in regular session; Commissioner Dussault left for Portland, Oregon to attend a "Adding Value to Wood" conference.

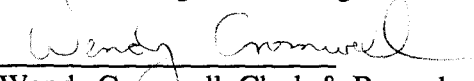
Notice of Hearing

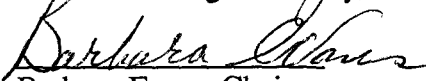
Chairman Evans signed a Notice of Hearing on the application of Northstar Air Express for tax incentives under Resolution No. 87-080 regarding tax incentives for new and expanding industry and covers the expansion of the existing transportation facility at Northstar Air Express, located at 5225 Highway 10 West, setting the hearing date for February 19, 1992, at 1:30 p.m.

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JANUARY 24, 1992

The Board of County Commissioners did not meet in regular session; Commissioner Dussault was in Portland, Oregon attending the "Adding Value to Wood" conference through Saturday, January 25th.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

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JANUARY 27, 1991

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was on vacation the week of January 27th through the 31st.

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond naming Art & Ray's Lock Shop as principal for warrant #24452, dated 4/25/91, on Missoula County High Schools' Insurance Trust Fund in the amount of \$4.50 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

JANUARY 27, 1992 (cont.)Conditional Renunciation and Disclaimer

The Board of County Commissioners signed a Conditional Renunciation and Disclaimer in the matter of the Estate of Ruth Klass Sticht (Deceased). Missoula County has an interest in the estate (description of property on the document) by reason of being the contingent residual devisee, but hereby renounces and disclaims its right, title, estate and interest on the condition that it receive the residual estate after all debts and costs are paid as provided by the Will. The original document was returned to Attorney Ray Fox for further handling.

Notice of Public Hearing

Chairman Evans signed a Notice that on February 19, 1992, the Board of County Commissioners will conduct a public hearing relative to creating a proposed Seeley Lake Sewer District, with the hearing to be held at 1:30 PM in Room 201 of the Missoula County Courthouse and will continue at 7:30 PM in the Seeley Lake Community Center.

Quitclaim Deeds

The Board of County Commissioners signed the following Quitclaim Deeds for tax deed property which has been redeemed:

- 1) from Missoula County to John Richards, Seeley Lake, MT for SUID #1509709, Double Arrow Ranch-Phase IV - Lot 257 - to cancel tax deed, Book 343, Micro Page 1761;
- 2) from Missoula County to Gene A. Anderson, Missoula, MT for SUID #5835372, Tract 6A-2, in NE1/4 NW1/4 Section 36, T14N, R20W - COS 2052, to cancel tax deed recorded in Book 343, Micro Page 1767; and
- 3) from Missoula County to John Richards, Seeley Lake, MT for SUID #1509603 - Double Arrow Ranch-Phase IV - Lot 256 - to cancel tax deed 343-1760.

The deeds were returned to the Clerk and Recorder's office.

Resolution No. 92-006

The Board of County Commissioners signed Resolution No. 92-006, a Resolution granting two agricultural exemptions to Elly Blize for a tract of land identified as Book 334, Micro 1678, as the tracts of land are located entirely within the floodplain and are not suitable for structures requiring water or sewage facilities.

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

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JANUARY 28, 1992

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

Audit List

Commissioners Evans and Dussault signed the Audit List dated January 28, 1992, pages 5-34, with a grand total of \$95,937.55. The Audit List was returned to the Accounting Department.

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond naming Marianne Smith as principal for warrant #31893, dated January 17, 1992, on the Clerk of Court Trust Fund in the amount of \$175.00 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

JANUARY 28, 1992 (cont.)Acceptance of Supplemental Money

Chairman Evans signed Acceptance of supplemental Federal MCH Block Grant funds in the amount of \$8,455 and will provide reporting of the expenditure of same. The form was forwarded to the Family/MCH Bureau, DHES, in Helena.

Other items included:

Letter Denying Claim for Damages

The Board of County Commissioners signed a letter to deny a Claim for Damages filed 1/17/92 by Ms. Verna Lange, 2395 S 8th St. W., Missoula, MT 59801. The claim involved a request for reimbursement for damages to Ms. Lange's vehicle wheel rims at a road construction site; however, there was no negligence on the part of the County and a motorist is obliged to exercise due caution and operate with respect for the conditions which are present.

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

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JANUARY 29, 1992

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. 92-007

The Board of County Commissioners signed Resolution No. 92-007, a Budget Amendment for FY'92 for the Library, including the following expenditure and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>Budget</u>
Library Books - 2220-410-460110-960	\$8,363.17
<u>Description of Revenue</u>	<u>Revenue</u>
State Aid	\$8,363.17

Professional Services Contract

The Board of County Commissioners signed a Contract for Professional Services with the Grounded Eagle Foundation/Raptor Room of Condon, MT, an independent contractor, for the purpose of publishing a Montana raptor guide for handouts for Missoula County school children, commencing February 1, 1992, through June 1, 1992, for a total payment of \$500.00, with the funding to be matched by donations from the private sector.

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'92 budget:

No. 920015, a request to transfer \$725.00 from the Consultants account to the Capital - Office Equipment account for the purpose of purchasing a desk.

Other items included:

- 1) the Commissioners appointed Dirk Visser to a three-year term on the Missoula Planning Board through December 31, 1994; and

JANUARY 29, 1992 (cont.)

- 2) the Commissioners appointed Gary Ardesson as 2nd alternate and Kendall Cleaves as the 3rd alternate member on the County Zoning Board of Adjustment through December 31, 1993.

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

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present was Commissioner Ann Mary Dussault.

There being no items on the agenda and no public comment, the meeting was adjourned at 1:31 p.m.

JANUARY 30, 1992

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 considered:

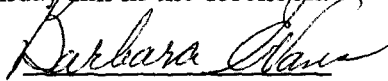
- 1) the Commissioners appointed Ralph Fessenden as an alternate member of the Airport Authority; and
- 2) the Commissioners agreed to delete Condition No. 6 of the approval of the Riverbottom Estates Subdivision and notified Dean Turner of the decision.

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

JANUARY 31, 1992

The Board of County Commissioners met in regular session in the afternoon; a quorum of the Board was present. Commissioner Evans attended the Economic Outlook Seminar sponsored by the U/M Bureau of Business & Economic Research held at the Holiday Inn in the forenoon.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

FEBRUARY 3, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ending January 17, 1992.

DAILY ADMINISTRATIVE MEETING

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

Proclamation

The Board of County Commissioners signed a joint Proclamation with the City of Missoula proclaiming April 24-26, 1992, as "Hoby Days" and inviting the cooperation of all citizens to join in recognizing the value of the work accomplished by the Hugh O'Brian Youth Foundation in promoting good citizenship. The Proclamation was forwarded to the City for signature by the Mayor.

MCH Block Grant Quarterly Report

Acting Chair Dussault signed the MCH Block Grant Quarterly Report for Contract No. 320136, in the amount of \$77,958. for the 2nd Quarter ending December 31, 1991. The report was forwarded to DHES in Helena.

Agreement

The Board of County Commissioners signed an Agreement, dated December 17, 1991, between Missoula County, the City of Missoula, the State of Montana, the City-County Health Dept., and District 11 Human Resources Council for the Development of a Pilot Program to Replace High Emission Wood Burning Stoves, as per the provisions set forth, for total costs not to exceed \$2,775.00., and extends the Agreement through December 31, 1992.

Resolution No. 92-008

The Board of County Commissioners signed Resolution No. 92-008, a Budget Amendment for FY'92, for Youth Court, including the following expenditures and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>Budget</u>
2180-340-420153-111 Salary	\$12,438.40
-141 Fringe	3,109.60
-112 Temporary Salary	1,890.40

<u>Description of Revenue</u>	<u>Revenue</u>
2180-340-333013 '92 Home Arrest Grant Board of Crime Control	\$17,438.40

Budget Transfer

The Board of County Commissioners approved and signed the following budget transfer for Youth Court and adopted it as part of the FY'92 budget:

No. 92016, a request from Youth Court to transfer \$7,697.10 from Court Operations to Home Arrest 92 expenditure items (as listed on the attachment to the transfer) for County match for the Home Arrest Grant.

Other items included:

The Commissioners reviewed the audit of the Missoula County Attorney NSF check restitution account as of December 31, 1991, as submitted by the County Auditor, and forwarded it to the Clerk & Recorder's Office for filing.

FEBRUARY 3, 1992 (CONT.)

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

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FEBRUARY 4, 1992

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

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond naming Byron Boggs as principal for warrant #226026, dated January 8, 1992, on the Justice Court Fund in the amount of \$52.07 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 #1 (12/22/91 - 1/4/92) with a total Missoula County Payroll of \$387,843.92. 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 #2 (1/5/92 - 1/18/92) with a total Missoula County Payroll of \$383,850.28. The transmittal sheet was returned to the Auditor's Office.

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

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FEBRUARY 5, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Reports for Justices of the Peace, David K. Clark and Michael D. Morris, for month ending January 31, 1992.

Audit List

The Board of County Commissioners signed the Audit List, dated February 3, 1992, pages 5-29, with a grand total of \$90,581.84. 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 to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Robert J. Blotkamp for Lots 8, 9, 9A, Hillside Homes #1, Plat A, Missoula County, for a total purchase price of \$20,000.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Kimberly S. Novak-Mansch and Larry D. Mansch for Lot #46, Grantland #13, Missoula County, as per the special provisions set forth, for a total purchase price of \$25,000.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

FEBRUARY 5, 1992 (CONT.)

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

WEEKLY PUBLIC MEETING

Chairman Barbara Evans called the meeting to order at 1:35 p.m. Also present was Commissioner Ann Mary Dussault.

BID AWARD: LIGHTWEIGHT "NO. 5 GANG" FAIRWAY MOWER (LARCHMONT GOLF COURSE):

Barbara Evans, explained from information provided by the Larchmont Golf Course staff, that bids were opened for a Lightweight No. 5 Gang Fairway Mower for Larchmont Golf Course at 10:00 a.m. on January 30, 1992 with the following results:

B. & E. Turf-Aid Distributing, Inc.	\$ 18,750.00
Midland Implement, Inc.	20,035.00

The Larchmont staff recommends the bid be awarded to B. & E. Turfaid Distributing, Inc. for a total amount of \$18,750.00 as the lowest and most responsive bidder.

Ann Mary Dussault moved and Barbara Evans seconded the motion to award the bid to B. & E. Turf-Aid Distributing, Inc. for a Lightweight No. 5 Gang Fairway Mower in the amount of \$18,750.00 as the lowest and most responsive bidder. Motion carried on a vote of 2-0.

At this time, Commissioner Janet Stevens joined the meeting.

HEARING: (Certificate of Survey Review) USE OF OCCASIONAL SALE (Jerry Marble) COS #1480:

Marnie McClain, Deputy County Attorney explained that Jerry Marble has submitted a request for an occasional sale exemption, dividing COS 1480 into a 1 acre and a 1.13 acre parcel. This parcel has previously been divided as follows: COS 897 was filed in 1976 by court order. The approximately forty (40) acre parcel shown in the COS was divided between five (5) owners, Elmer and Mary Flynn, Kathleen McKinnon, Frances McQuade, and Sam and Patricia Sinclair. (Parcel 1, owned by Emmet Flynn, was not subject to the court order.) Frances McKinnon received Tract 4, an approximately seven (7) acre parcel. Frances McQuade filed COS 953 in 1976, using the occasional sale exemption to create a 3.50 acre parcel. In 1976, Frances McQuade filed COS 1046 using the agricultural exemption to create a 1.60 acre parcel. In 1978, Frances McQuade filed COS 1480 to create a 2.13 acre parcel, again using the occasional sale exemption. The agricultural exemption on COS 1046 was revoked in 1990, and the owners, John and Cindy Shields, were credited with an occasional sale exemption.

According to the records kept by the Missoula County Surveyor's office, Jerry Marble has not previously used any exemptions to the Subdivision and Platting Act. It appears, however, that Mr. Marble's wife, Joni, has used several exemptions to the parcel. COS 2057 was filed in August, 1979, creating three parcels. The exemptions used were the occasional sale and gift to a family member, with a remainder. The gift was created for transfer to Jerry Marble. Joni Marble also did a relocation of common boundary on COS 2501 and transferred a portion of her property to an adjoining landowner. An occasional sale was also done on the same COS, credited to G. Elmer and Mary Flynn.

Barbara Evans opened the hearing to public comment.

Jerry Marble said he had the road paved in the area, which is maintained privately; as well as brought utilities to the area. This is the last piece of land he owns besides his own parcel. His plan is to construct a home on the back parcel, then sell his present home.

Janet Stevens moved and Barbara Evans seconded the motion to approve the request for an occasional sale in that it meets the zoning criteria for that area, it is the only remaining allowable division left and Jerry Marble has no past history of exemptions. The motion carried on a vote of 2-1. Ann Mary Dussault voted against the motion because she felt the split is a five-lot subdivision.

FEBRUARY 5, 1992 (CONT.)SALE OF TAX DEED PROPERTY (2nd Auction):

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor of the Clerk & Recorder's office, that as required by M.C.A. 7-8-2301 (3) this is the second auction for the 36-month delinquencies. The following is a list of the parcels that were offered on January 22, 1992 along with the fair market value for each parcel as determined by Jim Fairbanks, Appraisal Office.

The Tax Deed Land Sale was published in the Missoulian for two consecutive Sundays and posted in three places as required by M.C.A. 7-8-2302.

It should also be noted that a copy of the tax deed and a courtesy letter was mailed to all interested parties on January 7, 1992, stating that they had the right to redeem the property prior to the first auction.

Legal Description	Fair Market Value
Union--Lot 24 Blk 13 Pt Vac Alley & St	\$22,000.00
Double Arrow Ranch--Phase IV--Lot 234	8,000.00
Frenchtown--Frac of Lot 1 Blk 2 Pt Vac St	1,900.00
W. Riverside #2--Lot 4	19,000.00
Gleneagle at Grantland--Lot 96	2,700.00
In SW 1/4 SW 1/4 N. of H/W Plat S 24-13-19	
6 acres	1,000.00
Road in NE 1/4 32-14-19 3.41 AC & In W 1/2	
33-14-19 5.82 AC	9,200.00

Barbara Evans opened the auction to the bidding process. There being no one in attendance, the auction was closed.

Ann Mary Dussault explained that the County is now free to seek a private sale.

There being no further business to come before the Board, the meeting was adjourned at 1:45 p.m.

* * * * *

FEBRUARY 6, 1992

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

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond, naming Adina Lindgren as principal for warrant #49541, dated October 25, 1991, on the MCHS Payroll fund in the amount of \$71.57 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 Riverbottom, a subdivision of Missoula County located in the SE 1/4 of Sec. 26 and SW 1/4 of Sec. 25, T.12 N., R., 20 W. PMM, a total of 17.88 acres, with the owner/developer being Mike Turner. The granting of a conservation easement to Missoula County serves as satisfaction of the park requirement for this subdivision.

Other items included:

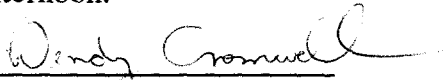
- 1) the Commissioners approved using CDBG program income to cover the shortfall on the Extended Family Services project; and
- 2) the Commissioners appointed Libby Langston as the "alternate member" on the Missoula Planning Board to serve through December 31, 1994.

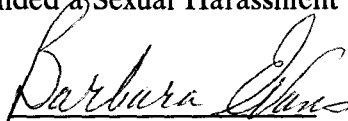
The minutes of the daily administrative meeting are on file in the Commissioners Office.

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FEBRUARY 7, 1992

The Board of County Commissioners met in regular session; all three members were present. Chairman Evans gave the "State of the County" address at noon at the Chamber's State of Missoula luncheon held at the Village Red Lion; and all of the Commissioners attended a Sexual Harassment Seminar in the afternoon.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

* * * * *

FEBRUARY 10, 1992

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:

Employment Agreement

The Board of County Commissioners signed a Missoula County Employment Agreement, dated February 7, 1992, between the Missoula County Fair Commission and Sam Yewusiak, the Fairgrounds Facility Events Manager, as per the terms and duties set forth, for an annual salary of \$31,262.40. The Agreement was returned to the Personnel Department.

Professional Services Contracts

The Board of County Commissioners signed three (3) Professional Services Contract with Sam Manno (The Reptile Rehabilitation Center), Mark Medvetz, and Carla Burgess, independent contractors, for the purpose of planning, acquiring supplies, instruction and clean-up for classes offered to the public by the Missoula Art Museum, as per the terms set forth, for the period commencing January 1, 1992, through June 30, 1992, for compensation in the amount of \$10 per hour.

Plat

The Board of County Commissioners signed the Plat for Lots 9, S, S1 & S2 to Big Sky Lake Estates, a subdivision of Missoula County, located in Government Lot 1, Section 28, T. 16 N., R 14 W., PMM, a total area of 7.92 acres, with the owner of record being Big Sky Lake Company.

Replacement Bond

Chairman Evans signed Bond #R14 in the amount of \$5,000.00 to replace Missoula County Hospital 1978 Medical Office Building Revenue Bond #158, due 6/92 with coupons for \$5,000.00. The Bond was returned to Susan O'Neil at First Interstate Bank.

Other items included:

- 1) the Commissioners appointed Beverly Kiker as an "alternate member" of the Museum Board of Trustees through June 30, 1994; and
- 2) the Commissioners approved the hiring of a temporary part-time clerk in the Medical Insurance Department commencing around March 23, 1992, for mail and file duties during the cutover to new hardware and software in the office.

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

HEARING - FEBRUARY 10, 1992 - 10:30 a.m.Proposed Emissions Limits on New or Replacement Incinerators Throughout Missoula County:

Chairman Barbara Evans called the hearing to order at 10:35 a.m. Also present were Commissioners Ann Mary Dussault and Janet Stevens.

Ken Anderson, Missoula City/County Health Department, explained the changes the Missoula City/County Air Pollution Control Board has made relative to the proposed emissions limits on new or

FEBRUARY 10, 1992 (CONT.)

replacement incinerators throughout Missoula County. The first portion contains the rules or definitions; the third page contains the rules regarding regulated air contaminants which appear later in the regulations, but is defined here; the fourth page contains rule 1105 which refers to construction and annual operating permit application requirements. He said rules 11 and 12 are the direct result of the experience with Ross Electric. The application for an operating permit includes some information for zoning so the Health Department is aware that a contamination source permit would be required for the operation. It includes an additional form with the application for the air permit that shows that the department is aware that a permit would be required.

Rule 1406 requires that any incinerators permitted before March 20, 1992, would not be required to fill the same requirements as new incinerators that come into the valley or the air stagnation zone. It would apply to any incinerators that malfunction or break down.

Number 7 on the last page refers to placing additional requirements to determine that the lowest emission level has been achieved. Number 8 stops short of a ban; but prevents industry from incinerating any particular wastes listed in Title 16 of the Montana State Code, which is a complete listing of hazardous materials and hazardous wastes.

A general discussion ensued relative to the reasons why a ban couldn't be placed on incinerators.

Marnie McClain, Deputy County Attorney, said bans have not fared well in court.

Jim Carlson, Missoula City/County Health Department, said a ban would give people a false sense of security.

Janet Stevens stated the Commissioners couldn't change anything at the hearing; they could only adopt or reject what is presented.

Barbara Evans opened the hearing to public comment.

Bill Smith, representing Friends of Grass Valley, spoke in favor of the regulations and thanked the Board for their efforts. He said these regulations can insure that air quality will get better for future generations.

Brad Martin, executive director for Montana Public Interest Research Group (MontPIRG), supported the regulations before the Board. He commended the Health Department and strongly urged the Board to pass the regulations before them.

Mary Taylor, representing the League of Women Voters, thanked the Air Pollution Control Board, the Commissioners and the Health Department for their efforts and their stand on the proposed regulations.

Dave Dorsen, area resident of the proposed Ross Electric plant, stated there have been approximately 4-6,000 signatures presented to the Commissioners and to the Health Department against Ross Electric. He presented another petition containing 2,000 signatures representing further opposition to toxic waste incinerators in Missoula County.

Mike Cohan, president of the Missoula Valley Improvement Alliance, urged the Board to approve the proposed changes and amendments in the regulations.

Mike Jarvonek, representing Montana Wilderness Association, urged passage of the proposed changes in the regulations.

Ray Stivastant, a meteorologist, and a former counsel-person for the Pollution Air Advisory Counsel, provided some statistics of the PM-10 count for the Missoula Valley. He stated Missoula has a history of air pollution problems. He encouraged the Board to support the changes in the regulations.

Bill Smith stated that some persons may feel that these regulations may inhibit job growth in the valley. He feels these regulations will send a message to industries of a cleaner nature; thus attracting cleaner employment to the Missoula valley such as Patagonia.

A phone call was received from Pam Diedrich, 243-4316, in support of passing the changes in the air regulations.

A letter was received by the Board from Michael Cohan, and reads as follows:

FEBRUARY 10, 1992 (CONT.)

Dear Commissioners:

On behalf of my organization, I hope that you are about to take an important step for the future of Missoula County. Today you have the power to give us protection from toxic burning. Today you can make the statement that Missoula County cares for its people and their environment.

The proposed changes and amendments you have before you are a turning point. By voting for these new regulations you can halt the further decline of our air quality. Based on them we can all work together to reverse that decline. If you say "yes" to these well designed proposals you will prevent a serious threat to the health of our residents and you will help to keep Missoula County the kind of place people want to live, have families and do business.

A simple, three-letter affirmative will let us all breathe easier. Right now, just say "yes".

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the resolution amending the Missoula City-County Air Control Program Chapter 9, Rules 1101, 1105 and 1406. The motion carried on a vote of 3-0.

Janet Stevens stated mistakes will happen; but because of the community getting involved and paying attention, the residents have brought some very serious considerations to the Boards attention that they weren't aware of. She thanked all those involved.

Resolution No. 92-009

The Board of County Commissioners signed Resolution No. 92-009, a Resolution amending the Missoula City-County Air Pollution Control Program, Chapter IX, Rules 1101, 1105, and 1406 of the Missoula City-County Air Pollution Control Program attached to the Resolution on file in the Clerk & Recorder's Office, effective upon approval by the State Board of Health.

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FEBRUARY 11, 1992

The Board of County Commissioners met in regular session; all three members were present. Commissioner Stevens attended a meeting of the Clark Fork Coordinating Forum held at the Missoula County Courthouse in the forenoon.

Audit List

Commissioners Stevens and Dussault signed the Audit List, dated February 10, 1992, pages 4-24, with a grand total of \$63,074.52. The Audit List was returned to the Accounting Department.

Monthly Report

Chairman Evans 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, 1992.

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 First Interstate Bank of Missoula for SUID #1507907, Double Arrow Ranch-Phase IV -Lot 234, a parcel redeemed from the tax deed process. The Deed was returned to the Clerk & Recorder's Office.

Contract

The Board of County Commissioners signed a Contract with the Montana Department of Corrections and Human Services, Mental Health Division, Child and Adolescent Service System Project (CASSP) and Missoula County for the purpose of completing Phase I of the Missoula County Demonstration

FEBRUARY 11, 1992 (CONT.)

Project, a plan for implementing a comprehensive community based and designed system of services for children and adolescents with severe emotional disturbance, and their families, as per the terms set forth, with the total compensation not to exceed \$10,000.00, for the period through March 31, 1992. The Contract was returned to Cindy Klette, Grants Coordinator, for further handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and the Seeley Lake Ranger District, USFS, Seeley Lake, MT, for the purpose of installing a vandal proof donation box, installing directional signs, and distribution of ski trails' maps during the 1992 season for the Rural Planning Office, as per the terms set forth, for the period from January 1, 1992, through July 1, 1992.

1992, for a total payment of \$500.00.

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

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FEBRUARY 12, 1992

The Board of County Commissioners did not meet in regular session; Commissioners Dussault and Stevens were in Lewistown attending the MACo Midwinter Meeting through Friday, February 14th. Commissioner Evans attended the Governor's Press Conference on Health Care and a tour of the Science & Technology Building at the University of Montana with Governor Stephens in the forenoon.

WEEKLY PUBLIC MEETING CANCELED

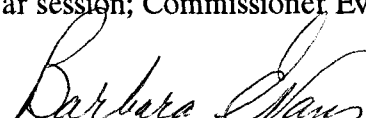
The Public Meeting scheduled for this date was canceled as two of the Commissioners were out of town.

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FEBRUARY 13 & 14, 1992

The Board of County Commissioners did not meet in regular session; Commissioner Evans was out of the office the afternoon of the 14th.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

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FEBRUARY 17, 1992

The Courthouse was closed for the Washington-Lincoln Day holiday.

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FEBRUARY 18, 1992

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

In the evening, the Commissioners met with residents of the Westview Trailer Park at a meeting held at the Courthouse.

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 Personnel Department and adopted it as part of the FY'92 budget:

FEBRUARY 18, 1992 (CONT.)

No. 92-017, a request to transfer \$1,200. from the Contracted Services account to the Capital - Office Equipment account to purchase a laser printer.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1991, between Missoula County and the Missoula Children's Theatre (Operational Support) for the purpose of sponsoring a cultural and aesthetic project, as per the terms set forth, for a total amount of \$15,000.00 for a twenty-four month period through June 30, 1993, contingent upon the receipt of funds for Montana Arts Council Cultural and Aesthetics Grant, Number 390, by Missoula County.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1991, between Missoula County and the Missoula Children's Theatre (Building Capital Campaign) for the purpose of sponsoring a cultural and aesthetics project, as per the terms set forth, for a total amount of \$35,000.00 for a twenty-four month period through 6/30/93, contingent upon the receipt of funds for Montana Arts Council Cultural and Aesthetics Grant Number 392, by Missoula County.

Loan Agreement

The Board of County Commissioners signed a Loan Agreement between Missoula County and Women's Opportunity and Resource Development Group, whereby the County agrees to loan WORD, as per the terms set forth, the sum of \$30,000.00 for use in their microbusiness revolving loan fund, to be repaid as per the payment schedule set forth with 3% interest through February 11, 1999. The Agreement was returned to Cindy Wulfekuhle, CDBG Coordinator, for further handling.

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

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FEBRUARY 19, 1992

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:

Warranty Deed, Settlement Statement, Escrow Agreement, & Request for Reconveyance

The Board of County Commissioners signed a Warranty Deed, Settlement Statement, Escrow Agreement, & Request for Reconveyance to Robert J. Blotkamp purchaser of Lots 8, 9, and 9A of Hillside Homes No. 1, Supplemental Plat 'A', Parcel 'E', a subdivision of Missoula County.

Agreements to Sell and Purchase

The Board of County Commissioners signed Agreements to Sell and Purchase County property with the following:

John H. and Lorie K. Klautt, for Lot 3, Grantland #12, Missoula County, Montana for a total purchase price of \$17,500.00, as per the special provisions set forth;

Vaughn & Karen Latour, for Lot 9, Grantland #13, Missoula County, Montana for a total purchase price of \$19,000.00, as per the special provisions set forth; and

Brenda Avery, for Lot 1, Normans Lane/Michelle Addn., Missoula County, Montana for a total purchase price of \$13,500.00, as per the special provisions set forth.

The Agreements were returned to Jim Dopp, Operations Officer, for further handling.

FEBRUARY 19, 1992 (CONT.)Warranty Deed

The Board of County Commissioners signed a Warranty Deed from Missoula County to Patricia L. Rawlings for Lot 25 of Hillview Heights #7, a platted subdivision in the City of Missoula, subject to the items set forth on the Deed. The Deed was returned to Jim Dopp, Operations Officer, for further handling.

Lease of Personal Property

The Board of County Commissioners signed an Agreement to lease County electronic testing equipment to Montana Electronics Co., Inc. of Missoula, as per the terms set forth and as per the schedule in the Lease, for an amount of \$500.00 per year for three (3) years, commencing January 1, 1992 through December 31, 1994.

Other items included:

The Commissioners approved a request for a reduction in assessment for RSID No. 439 (Elk Ridge Road improvements) from Precht's.

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 Chairman Barbara Evans. Also present were Commissioners Ann Mary Dussault and Janet Stevens.

BID AWARD: Fort Missoula Lawn Maintenance (General Services)

Jim Dopp, General Services, explained that bids for maintenance of the Fort Missoula Park Complex were opened on Monday, February 3rd. Bids were received by:

Quality Landscaping & Lawn Care	\$198,672 -- \$58,259/year
Growing Images	\$181,524 -- \$52,433/year

Missoula Parks & Recreation Department No bid received

He said that although a bid was not received by Missoula Parks and Recreation Department, Jim Van Fossen, Director of the City Parks and Recreation Department, expressed the interest of his department in continuing the maintenance of the Fort Missoula Park Complex and asked that their historical record, including cost, be used as a measure of their intent. Over the past two fiscal years, Missoula County has paid Missoula Parks and Recreation an average of \$45,075 for the maintenance of the Fort Missoula Complex.

The Missoula County Park Board recommended rejection of the bids for maintenance of Fort Missoula Park and continuation of the maintenance relationship with the Missoula Parks and Recreation Department for this maintenance.

Janet Stevens moved and Ann Mary Dussault seconded the motion to reject the bids for the maintenance of Fort Missoula Park and continue the maintenance relationship with the Missoula Parks and Recreation Department. The motion carried on a vote of 3-0.

BID AWARD: Motor Pool Cars (General Services)

Jim Dopp, General Services, explained that bids for three used motor pool vehicles with mileage of 25,000 miles, 6-cylinder vehicles preferred, were opened on Monday, February 10th. The following is a list of the dealers and vehicles bid:

DeMarois Oldsmobile GMC	1991 Oldsmobile Calais 4 dr; 15,000 miles; 4 cylinder; cruise control; \$8,975
	1991 Oldsmobile Calais 4 dr; 22,525 miles; 4 cylinder Quad EFI; cruise control; \$8,975

FEBRUARY 19, 1992 (CONT.)

1991 Oldsmobile Calais 4 dr; 23,603 miles; 4 cylinder Quad EFI; cruise control; \$9,475

1991 Chevrolet Corsica 4 dr; 17,451 miles; 6 cylinder EFI; \$8,975

1991 Oldsmobile Ciera 4 dr; 11,696 miles; 6 cylinder EFI; cruise control; \$9,990

1991 Oldsmobile Ciera 4 dr; 17,708 miles; 6 cylinder EFI; cruise control; \$9,990

Grizzly Auto Center

1991 Plymouth Acclaim 4 dr; 16,055 miles; 4 cylinder; cruise control; \$8,800

1991 Plymouth Acclaim 4 dr; 9,000 miles; 4 cylinder; cruise control; \$8,800

1991 Plymouth Acclaim 4 dr; 14,000 miles; 4 cylinder; cruise control; \$8,800

Karl Tyler Chevrolet

1991 Chevrolet Corsica; 16,000 miles; 4 cylinder EFI; cruise control; \$8,800

1991 Chevrolet Corsica; 6,500 miles; 4 cylinder EFI; \$8,800

1991 Chevrolet Corsica; 6,000 miles, 4 cylinder EFI; \$8,800

Staff recommends award of the bid to DeMarois Oldsmobile GMC for two 1991 model Oldsmobile Cieras and one 1991 model Chevrolet Corsica subject to individual inspection and acceptance of vehicles for a total fiscal impact of \$28,995. The amount budgeted for the purchase of the vehicles is \$30,000.

Ann Mary Dussault moved and Janet Stevens seconded the motion to award the bid to DeMarois Oldsmobile for two 6 cylinder 1991 model Oldsmobile Cieras, and a 6 cylinder, 1991 Chevrolet Corsica, subject to individual inspection and acceptance of the vehicles. The motion carried on a vote of 3-0.

HEARING: Petition of Intent to Create RSID #443 (Sewer Extension in Carline, Butte Addition)

John DeVore, Administrative Officer, explained that on April 25th, 1991, the Board of County Commissioners created RSID #443 by Resolution No. 91-042, and authorized the sale of bonds and submittal of construction bids for the project. The estimates of the construction costs were too low and the actual bids received exceeded the estimates for construction, thereby causing the County to abort the RSID at that time, including withdraw of bond sale for the project. Now, a new petition has been received with estimates reflecting a more accurate cost of construction. At this time, the petitioners are requesting the Board to reconsider the district with the new construction estimates.

No letters of protest have been received. He said the staff recommends the creation of RSID #443. The fiscal impact is \$48,000 in RSID Bond sales.

Barbara Evans opened the hearing to public comment.

Gilbert Larson, of Druyvestein, Johnson and Anderson, representing the engineers for the RSID, stated that the cost of the RSID per unit originally was \$2100.00. The cost is now \$2300.00. He said he felt the costs were reasonable for the residents of the area.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to create RSID No. 443 Sewer Extension in Carline, Butte Addition. The motion carried on a vote of 3-0.

HEARING: Petition for Annexation into Missoula Rural Fire District (Tract on Roller Coaster Road)

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor, 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 described as:

FEBRUARY 19, 1992 (CONT.)

Tracts 6 and 7 of Certificate of Survey No. 2586; Tracts 10-A and 10-B of Certificate of Survey No. 2978; Tracts 9-A and 9-B of Certificate of Survey No. 3116; Tracts 8-A and 8-B of Certificate of Survey No. 3161.

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.

Barbara Evans opened the hearing to public comment; there being none, the hearing was closed.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the petition for annexation of Tracts 6 and 7 of COS No. 2586; Tracts 10-A and 10-B of COS No. 2978; Tracts 9-A and 9-B of COS No. 3116; Tracts 8A and 8B of COS No. 3161 located on Roller Coaster Road into the Missoula Rural Fire District. The motion carried on a vote of 3-0.

HEARING: Application of Northstar Air Express for Tax Incentives for New and Expanding Industry

John DeVore, Administrative Officer, explained that Northstar Air Express had applied for tax incentives under Resolution No. 91-101 regarding tax incentives for new and expanding industry for expansion of the existing transportation facility located at 5225 Highway 10 West, Missoula, Montana 59802. The application is based on improvements in excess of \$678,738 installed during 1991. The qualifying improvements consist of a 10,700 square foot hangar and maintenance operation with 2,100 square feet of office space, and a 24,000 gallon fuel tank farm. The application states that the new facility will provide increased competition in the aviation charter, fuel, storage and aircraft maintenance business, and creates 12 new jobs. It will also result in better service to the general public. Deputy County Attorney Mike Sehestedt has indicated that with the amendments enacted by the 1991 legislature, the application appears to fall within the statute. All affected taxing jurisdictions have been notified of this hearing, and legal notice of the hearing has also been published.

Barbara Evans opened the hearing to public comment.

Henry Crane, representing Northstar Air Express, presented by way of graphs, information relative to the economic growth of Northstar Air Express within the last few years. He said that at the time of application, they failed to include a request that the fuel trucks be included in the application. After filing the application, a letter was sent requesting inclusion of the fuel trucks. The recent expansion has created 12 new jobs; a proposed expansion of \$2 million will create 20 new jobs.

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

Michael Sehestedt, Deputy County Attorney, explained the statutory guidelines relative to tax incentives. He said that the last legislature amended the statutes under which the County can consider tax relief for new and expanding industries, to add transportation and warehousing to the definition of qualifying industries. Fifty percent of the income from the operation must be derived from an out of state source. He said that more than half of Northstar's revenue can be clearly attributed to out of state sources and operations. Northstar qualifies as a transportation related industry drawing more than half of their gross income from outside the state.

Ann Mary Dussault asked if the projection of new employees to 12 has caused any displacement of employees at the competitors facility.

Ron Hendrickson, general manager of Northstar, said that he didn't think anyone had been displaced. However, Northstar had hired two employees from their competitors, but he thinks these have been replaced.

Ann Mary Dussault said it needs to be made clear that by Northstar creating new jobs, they are not displacing jobs already in the industry.

Janet Stevens explained that the airport has been supported by two different maintenance facilities in the past.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the tax incentives request by Northstar Air Express under Resolution No. 91-101 regarding tax incentives for new and expanding industry. The motion carried on a vote of 3-0.

FEBRUARY 19, 1992 (CONT.)Resolution No. 92-010

The Board of County Commissioners signed Resolution No. 92-010, a resolution approving the application for tax incentives by Northstar Air Express.

The Board adjourned as the Board of County Commissioners and reconvened as the Planning and Zoning Commission. Present were Commissioners Barbara Evans, Ann Mary Dussault and Janet Stevens. Also present were Board members Horace Brown and Wendy Cromwell.

HEARING: (Planning & Zoning Commission) Eiseman Development Request (Zoning Dist. #4)

Zoe Mohesky, Office of Community Development, explained Charlie and Mary Lynn Eiseman are requesting approval to construct a stable on their property described as Tract B-2, Certificate of Survey #3416, containing 25.3 acres, located in the Southwest 1/4, Section 2, T.12N., R.19W., P.M.M., Pattee Canyon. The property is part of Planning and Zoning District #4.

She said the proposed stable would be located about 200 feet from the existing residence on an old skid trail. The skid trail will be upgraded as an access road to the barn site. The width of the access road will be about 10 feet. Excavation is expected to be minimal, with about a half a foot cut just below the surface. The site of the barn is relatively level. The stable will be 40 x 40 feet, with six stalls and stained grey in color.

On February 4, 1992, the Missoula Consolidated Planning Board recommended approval of the request.

Barbara Evans opened the hearing to public comment.

Charlie Eiseman, asked that approval be given to his request.

The public hearing was closed there being no further testimony.

Wendy Cromwell asked how far the adjoining property line is from the barn.

Zoe Mohesky said about 190 feet.

Janet Stevens asked about the color of the galvanized metal roof.

Charlie Eiseman said they had tried to match the color with the surrounding buildings; with their house being grey, the roof will be grey as well.

Ann Mary Dussault moved and Horace Brown seconded the motion to approve the request to construct a stable on the property in Pattee Canyon described as Tract B-2, COS No. 3416, containing 25.3 acres, located in the SW 1/4, Sec. 2, T.12N., R.19W., P.M.M. The motion carried on a unanimous vote.

The Planning and Zoning Commission adjourned. Chairman Barbara Evans reconvened the meeting as the Board of County Commissioners.

Barbara Evans moved and Janet Stevens seconded the motion to accept the recommendation of the Planning and Zoning Commission to approve the request by Charlie and Mary Lynn Eiseman to construct a stable on the property in Pattee Canyon described as Tract B-2, COS No. 3416, containing 25.3 acres, located in the SW 1/4, Sec. 2, T.12N., R.19W., P.M.M. The motion carried on a vote of 3-0.

HEARING: Rezoning Request (Krumvieda) East Missoula Area

Zoe Mohesky explained that the Office of Community Development has received a request from Dick Ainsworth, Professional Consultants, Inc., on behalf of the property owners, James and Sharon Krumvieda, to rezone a portion of their property (1.84 acres) from "C-A1" (Open and Resource Lands) to "C-RR3" (Residential). The property subject to this request is a portion of Tract C, COS #3036, located in the S 1/2, SW 1/4, NE 1/4, of Section 13, T.13N., R.19W., P.M.M.

The East Missoula area, including the Krumvieda property, was zoned in March of 1978. Zoning of the applicant's property was divided: C-RR3 applied to the bench area at the foot of the slope and the steeper hillside was zoned C-A1. The purpose of this rezoning is to increase the allowable density on the portion of the bench which still remains in the C-A1 zoning classification. With the proposed C-RR3 zoning classification, creation of the 1.84 acre parcel would then be permissible and occasional sale review would follow.

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The Planning Board held a public hearing on this request on February 4, 1992. One adjoining property owner spoke in opposition to the request due to dust and traffic problems in the area.

The Office of Community Development recommends that the requested zoning be **revised** and a "C-RR1" (one dwelling unit per acre) zoning district be approved on the subject land based on the Findings of Fact as set forth in the staff report. Staff suggested the lower density "C-RR1" following an analysis of the lands capabilities which has restrictions both physiographically and for drain field siting.

On February 4, 1992, the Missoula Consolidated Planning Board voted unanimously to recommend approval of this request, rezoning the subject 1.84 acres to "C-RR1", based on the Findings of Fact as set forth in the staff report, subject to two conditions. The conditions recommended by the board are:

- 1) That the property owner waive the right to protest a future RSID for municipal sewer; and
- 2) That the property owner waive the right to protest a future RSID for paving or oiling the road.

Chairman Barbara Evans opened the hearing to public comment.

Al Bolushi spoke in favor of the request if restrictive covenants would be placed on the property. He said the adjoining properties all have some form of restrictive covenants. The reason he wanted to place covenants on these properties would be to ensure for the future no opposition of a sewer district or road improvements, as well as to ensure exclusion of trailer houses and modular homes.

James Krumveida, property owner, said that there are covenants in place for single family dwellings.

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

Janet Stevens stated there is a legal issue placing restrictions on mobile and modular homes in any given area.

Marnie McClain stated that placing restrictions of this kind can be constitutionally suspect.

A general discussion ensued relative to the what was meant by placing covenants on the property for mobile and modular homes. It was concluded that Mr. Krumveida did not intend to place either of these kinds of homes on the property; it was decided for this reason that the covenants weren't an issue.

Janet Stevens suggested that Condition No. 2 be modified to read: "that the property owner waive the right to protest a future RSID for paving or dust abatement of the road."

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the rezoning request from "C-A1" to "C-RR1" based on the findings of fact as set forth in the staff report and subject to the following conditions:

- 1) That the property owner waive the right to protest a future RSID for municipal sewer; and
- 2) That the property owner waive the right to protest a future RSID for paving or dust abatement of the road.

The motion carried on a vote of 3-0.

HEARING: Proposed Seeley Lake Sewer District

John DeVore explained that a petition was received carrying 59 valid signatures from registered voters residing in the proposed Seeley Lake Sewer District requesting that the Board of County Commissioners create a Sewer District and describing the boundaries. Montana law requires 10% of the registered voters in the proposed territory sign the petition to make it valid; 10% equals 33 valid signatures. This hearing is the result of that petition. Legal notice has been published in the Missoulian and the Seeley Lake Pathfinder newspapers as required by law. The Board of County Commissioners will continue this hearing tonight at 7:30 in the Seeley Lake Community Hall. Written comments may be sent to the Board of County Commissioners by February 26, 1992. A decision will be made by the Commissioners no later than March 4. After the hearings are concluded, the Board of County Commissioners may make changes in the boundaries. If the Commissioners decide to create the district, an election will be

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held May 19, 1992 to determine if the district would be incorporated as a County Sewer District pursuant to Montana law.

Barbara Evans opened the hearing to public comment.

Paul Torrack, manager of the Seeley Lake Water District, stated the Water District's position on the issue of the sewer district. He said the water district is not involved with the sewer district at this time. However, if the proposed district is formed, the elected board members of the sewer district could petition the Water Board to consolidate.

Bill Morgan, property owner in Seeley Lake, stated that he sees no reason to create a sewer district at this time.

Walter Titus, property owner in Seeley Lake, also belonging to the group trying to establish a sewer district, explained that the boundaries were proposed in this manner because of high population densities in the area. The boundary lines follow the section lines. He feels a sewer district will give the residents of Seeley Lake a chance to have input as to what goes on.

Ron Richards, resident, asked if there had been any data formed to support contamination from sewers. He wondered where the criteria came from to support a need for a sewer district. He asked if the County intends to conduct any testing of the Seeley Lake area.

Ann Mary Dussault said her understanding from the Health Department is that there is no such data because studies have not been conducted.

Janet Stevens stated that legally the Seeley Lake community doesn't have to wait until there is a critical situation to require sewer. An area of individuals can get together and request that a sewer district be put together for the purpose of putting a sewer in, monitoring the data, etc. The residents would be able to vote on the issues. If there were a crisis situation, the State would require the County to do something, at which time a vote of the people wouldn't be necessary.

Ron Richards stated that because Missoula County was not conducting tests of the water in Seeley Lake, that the County was not concerned if there is a pollution problem in Seeley Lake.

Ann Mary Dussault stated that the majority of the resources to conduct testing right now is fixed on the study of the Missoula aquifer. There is concern about contamination anytime population densities continue to grow as in the case of Seeley Lake. She said the fact of the matter is that resources are not available at this time to do the studies necessary to determine what those concerns are. If the County had the resources, certainly studies would be conducted on a continuing basis to understand what is happening.

A discussion ensued relative to the taxes being paid by the Seeley Lake residents.

Ron Richards said if taxes are going up every year, but the services from the County remain the same, why wasn't Seeley Lake seeing a return on their taxes by means of testing the water. He said the residents deserve to know the situation of the quality of the water. He said from this knowledge of what is taking place, people could make a decision on whether or not they want a sewer district.

Ann Mary Dussault said that Seeley Lake residents receive more in value than the taxes they actually pay. She said she agrees the County needs to find more resources in order to look at ground water contamination sources. She said a sewer district would be a way of generating revenue to do the studies necessary to know whether in fact the implication of a sewer system would be the best option.

Walter Titus said that the purpose of petition was primarily to establish the boundaries of the sewer district. The actual installation of a sewer system is down the road and not an issue at this point.

Ann Mary Dussault said that if the boundaries are established for a sewer district, an elected board could proceed to exercise the powers of a sewer district. Before the board incurred any debt, the board would have to go back to a vote of the people.

Michael Sehestedt explained how the statutes set up the hearing process. The Board of County Commissioners received a petition, with an appropriate number of people in the proposed district as set by statute, which is 10%. After the notice, a hearing is held and protest is received. The Commissioners then adjust the boundaries of the proposed district so that property that would not benefit from the district be excluded and the property that would benefit would be included. After making those

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adjustments based on the protests received, the Commissioners have no discretion. An election is then held for the voters to decide whether or not they want to create the district. If a district is created through the electoral process, a board is elected. The process from then on is out of the Board of County Commissioners hands. The affairs of the district are handled by the elected board or sewer district. If they choose to incur debt to build a facility, they have to go back to the voters in the district to obtain their approval to incur that debt. They can tax for operational purposes, but to incur debt for facilities, they have to go back to the voters for approval. Registered voting residents and property owners within the district can vote on the issues involving the sewer district.

Doreen Culver, formerly with the Seeley Lake Water District, stated she is against the boundaries as they are being set. She said the boundaries are too encompassing; there isn't a need for a sewer district in some of the areas.

Maybell Bonnet, resident of the area, says she is in favor of a sewer district because she can't get water or sewer to her home. The Health Department will not issue a permit because they say there is no way to get rid of the waste.

There being no further testimony, the hearing was recessed until this evening in Seeley Lake at 7:30 p.m.

HEARING: (Certificate of Survey Review) Use of Occasional Sale--Moland (Bk 304, Page 1971)

Marnie McClain, Deputy County Attorney, explained that James Weatherly of Sorenson and Company has submitted an affidavit on behalf of Leif Moland. According to Mr. Weatherly, Mr. Moland purchased approximately 4 1/2 acres of land from the Milwaukee Railroad and constructed a single family residence near the easterly boundary during the summer of 1990. He would like to sell a one acre parcel immediately west of their home for an additional single family dwelling. The remaining portion of the property, approximately 2 to 2 1/2 acres, will either be retained by him or transferred by a boundary adjustment to the adjoining landowner to the south who has expressed interest in the property.

According to the records kept by the Missoula County Surveyor's office, this applicant has no history of dividing property through the COS process.

Chairman Barbara Evans opened the hearing to public testimony.

Nick Kaufman, Sorenson & Company, representing the Moland's, said there is a piece of Milwaukee right of way that is 100 feet wide that is adjacent to paved County road which is Mullan Road. The Molands purchased a piece of that right of way and have built their home on the east end. The west of the property abuts and adjoins the Stenerson property and they have expressed interest in the future for a boundary relocation. A person has come along and expressed an interest to buy one acre for the Molands'; hence the use of an occasional sale by creating a one acre tract.

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

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the occasional sale property described as Bk 304, Page 1971, on behalf of Leif Moland based on the finding that there is no intent to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

HEARING: (Certificate of Survey No. 4031 Review) Family Transfer--Lapinski

Marnie McClain explained that James Weatherly of Sorenson and Company has submitted an affidavit on behalf of Michael and Agnes Lapinski, requesting approval for a family transfer exemption for COS No. 4031. According to Mr. Weatherly, the original tract was originally about 23.53 acres in size. In November, 1991, the Lapinskis applied for and were granted an occasional sale exemption, which created a 3.51 acre tract and a 20 acre remainder. Mr. and Mrs. Lapinski have offered the 3.51 acre parcel for sale and plan to use the proceeds to build a new house. They currently live on the 20 acre parcel in a trailer. Mr. and Mrs. Lapinski now propose to divide the 20 acre parcel into two parcels, approximately 15 and 5 acres in size. They would transfer the larger parcel to their adult son and build their new home on the smaller parcel.

According to the records kept by the Missoula County Surveyor's Office, the applicants' COS history is confirmed.

Barbara Evans opened the hearing to public comment.

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Nick Kaufman explained that the Lapinskis' purchased the original piece of property and requested the use of an occasional sale last year with the intent to create a parcel and use the revenue to build a new home. He showed from a map the foundation of the new home along with the trailer they currently live in.

He explained that the Lapinski's 22-year old son was discharged early from the army and they would like to give the 15 acres the mobile home sits on to their son and retain the 4.74 acres for the home they have started.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the request of a family transfer for COS No. 4031 based on the finding that there is no intent 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 meeting was recessed at 2:40 p.m.

HEARING: Proposed Seeley Lake Sewer District - 7:30 p.m. - Seeley Lake Community Hall

Acting Chairman Janet Stevens reopened the hearing at 7:35 p.m. Also present was Commissioner Ann Mary Dussault, John DeVore, Administrative Officer and Marnie McClain, Deputy County Attorney.

Janet Stevens explained the purpose of continuing the hearing was to obtain testimony of the proposed Seeley Lake Sewer District. She said the Board received a petition with 59 verified valid signatures from registered voters residing in the proposed district, requesting the Board of County Commissioners to create a sewer district and describing the boundaries. The Montana Statutes require that 10% of the registered voters in the proposed territory sign the petition to make it valid. 10% in this case equals 33 valid signatures. This hearing is a result of the petition. The Board of County Commissioners will only be making a decision on the boundaries of the sewer district. The Board cannot decide to put it on the ballot. The fact that the Board has received the signatures of more than 10% of the residents and freeholders in the district means that it will automatically be on the ballot. The residents should give testimony on the boundaries of the district.

Donald Ditty, resident of the area, stated that he is opposed to the proposed sewer district. However, if a sewer district is voted in, the boundaries need to be expanded to include the high school, the airport and the Double Arrow Ranch. He also thought a disposal system would be a good idea.

Warren Little, resident, asked if the boundaries, after being set, could be expanded to allow residents to be annexed into the district.

Janet Stevens said if residents wanted to be annexed, they could be.

Tom Morris, resident, stated the high school needs to be included in the boundaries because of its large size and its proximity to Morrel creek.

Joel Morris, resident, stated that the boundaries were set according to density; where the highest potential for contamination existed. The committee that was set up to create this district talked to people in town to get an idea of who wanted to be in the district and who didn't. The high school was asked specifically, but didn't want to be included in the district. He asked if a group wants either in or out of the district, can be included or excluded before the boundaries are established?

Marnie McClain said if a group wants to be included in the district, they can be. However, if a group wants out of the district, the Commissioners are not required to exclude them from the district. The voters can decide if they don't want that particular district. The group can petition to come into the district, or are welcome to speak in opposition to being included in the district at this time. It is up to the Commissioners to make the decision to establish the boundaries.

Joel Morris said he had just received a letter regarding the sewer plant in Missoula. They will no longer be accepting sewage from septic tanks over a five-mile radius from the city of Missoula. They are also thinking about the possibility of accepting sewage only 2 days out of the week, or not at all. He said a sewer district would give the residents the control over the establishment of a sewer, as well as control over the cost of a sewer.

Janet Stevens said when the district gets bonding over the issue, the residents of the district can vote on whether to approve a sewer or not.

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Don Larson asked about the procedure for changing the boundaries once they are set by the Board.

Marnie McClain said that once the boundaries are established, in order to be included in the district, signatures could be gathered to petition inclusion in the district. It will also be possible to exclude land from the district by way of petition if the land can be shown to benefit in any way from the sewer district. The boundaries are merely established for an election; they are not cast in stone, and therefore can be changed if approved.

Wallie Titus asked about a Water Quality District that was being set up by the Commissioners.

Janet Stevens said the Board is in the process of setting some priorities as far as looking at a Water Quality District for the Missoula aquifer. Initially Seeley Lake will not be included in this district.

Ann Mary Dussault said it is unlikely Seeley Lake will be included in the proposed water quality district.

Dave Whitesitt, resident, stated he was opposed to a formation of a sewer district because he said that was a vote for a sewer system. However, if the need is found, then he would support a sewer. He said it was well documented that the business area and some of the housing along the shore needs sewer. He said there is no evidence that Dog Town where he resides needs a sewer. He said the boundaries should exclude all residential areas in Dog Town or should include all residential areas. A study should be conducted before a district is formed to find out which areas have a need for a sewer. He said residents who don't use a sewer system shouldn't be burdened with the cost. Those who use a system are the ones who should pay for it.

Joel Morris said a sewer district would give the people of Seeley an entity to receive grant dollars for research, etc. He asked if there wasn't a district, could the residents receive these dollars.

Janet Stevens said a sewer district isn't required to apply for grants for research testing, etc. The County can receive grants for the area.

John DeVore explained that the County can provide money for research as well as grants for research. However, a legal entity needs to be formed to apply for and receive grants for this research; this could be either a sewer district or an entity of the government.

Don Larson, representative in the State Legislature for the Seeley Lake district, said he is in favor of the creation of a sewer district. He said it was a mechanism that could be used to study the use of sewer and monitor water quality in Seeley Lake. If Seeley Lake doesn't create a district, Missoula County could be forced to regulate the septic and sewer for the residents; thus taking away the control of the area from the residents. He said that primacy in the State of Montana occurs when the Federal government comes down and says, "you will do something"; for example, clean up the water. He said they give two choices; either the residents do it or the federal government will do it and charge for the service. He said Seeley Lake will be forced to monitor and clean up the water quality. He said some say there isn't a problem in some of the areas, but this does not mean there won't be a problem in the future. He said Seeley Lake needs to take steps now to plan for future growth. In the special session of the legislature, a bill was passed called "Treasure State Endowment". This bill is a \$10 million a year diversion from a Coal-Tax Trust Fund. That money will be used in a grant and loan program for sewer, water and solid waste disposal facilities. If a district is created, the community of Seeley Lake, he feels, will be a step ahead of many rural communities.

Jim Richards asked if the community needed a district in order to receive funding from this program.

Don Larson said that the community can operate under the County government. But, by creating a sewer district, the control goes back to the residents of Seeley Lake. It remains local. In the absence of a district, decisions are made by the County.

Jim Richards asked about the benefits of creating a district. He said he feels the Commissioners represent Seeley Lake and ask for the residents' input. He asked if forming a district would be the same as petitioning the Commissioners relative to what the residents desire for their area. He wondered if the result would be the same in the end and if the Commissioners had the final say in the issue.

Janet Stevens said that a board would be elected by the voters within the sewer district. The elected board would make the decisions relative to the district from then on. Before any debt could be incurred by the sewer district, the voters would have to accept or reject the project. She said, as an example, if the State came in and said there was a degradation problem with the water, they could require the Commissioners to act and put a plan in place to take care of the problem; this may or may

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not include a sewer system. The Commissioners would then force that issue and require that a sewer be built.

Ann Mary Dussault said if a district is formed, and over time the decision is made to put in a sewer system, the cost is put to a ballot for the voters to decide upon. If a district is not formed and in time it is proven that there are contamination problems, the State Department of Health will tell the County to fix it. The County will create an RSID and a sewer system will be put in. There will be no ability to protest the RSID, the way the residents would normally protest a RSID now. She said there would be discussions between the Commissioners and the residents relative to the type of system and cost of the system and alternatives, but

in the end, the control rests with the Courthouse in Missoula, not with independent district with an independently created Board. A district needs to be set before the situation reaches the crisis stage; at some point this will occur. If this happens and there is no district, the Board will have no choice but to do something about the situation without the residents input. She asked that the residents think about this before deciding against a sewer district.

Jim Richards said the district should be much larger. The sewer can cover a specific area; it doesn't have to include the whole area. The board will decide the area based on benefit to each home and cost. He asked if all the residents and property owners within the district would be charged for a sewer system, if they aren't benefitting from the system.

John DeVore said that would be the decision of the sewer board.

Jim Richards said a lot of people don't understand that just because they reside within the boundaries of the district, this doesn't mean they will be hooked up to a sewer system. Everyone in the district will not necessarily be charged for the sewer. The board will decide who pays for the sewer.

A question was asked relative to who could vote on issues of the district.

Ann Mary Dussault said that a registered voter who is either a property owner of land within the district, a property owner of land within the district although not residing in the district, or a person who resides within the district, can vote on the issues.

Jim Richards said he is not for a sewer system that would cover the whole district, but the district needs to be larger so more people can become involved.

Wallie Titus said in order to serve the greatest amount of people, the boundaries were set up according to population density, in order to limit the cost.

David Whitesitt asked when the deadline was to file for the sewer district board and stated he would like to file to run for the Sewer District Board of Trustees. He asked about the process for running.

Ann Mary Dussault stated that assuming the election of trustees is at the same time, the election would take place May 19th with a filing deadline of March 5th. Five people have already filed. Five people would serve on the board. It may be best to wait for the district to be formed before filing. The board could be elected in the November election. Interested persons should file with the Clerk and Records office.

David Whitesitt asked if it was legal to hold an election if there hasn't been due notice of the vacancy of an elected official.

Marnie McClain said the statutes allow for the election of the trustees and the creation of the district to occur at the same time.

A general discussion ensued relative to what this hearing should include and the purposes of the hearing.

Janet Stevens said the hearing is a continuation of the hearing earlier in Missoula, in order to hear all testimony so the Commissioners could make a decision on the boundaries.

Ron Richards said he is in opposition to a sewer. He said there is no benefit to him to be included in a sewer district and asked to be taken out of the district.

Cathy Rapp said she is for an expanded sewer district so that the people of Seeley Lake would be responsible for their own decisions rather than counting on others to make the decisions for them.

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Janet Stevens said she understood that the committee to form the boundaries followed section lines in order to create the district. Section lines can be used to expand the district.

Arield Wasem, resident, said in the last area he resided in, he helped form a water district. He said people were against a water district. He said that after a while, the State put a building moratorium on their property. People that had property couldn't build on it or sell it. This went on for six years until a water district was set up. He felt the same thing could happen in Seeley Lake. The district needs to be extended to large populated areas and business areas. These areas can be taxed for the services they receive. This will take care of future growth.

A discussion ensued relative to the boundaries of the district. The district boundaries needed to be voted in by the residents; then the boundaries could be amended to include or exclude property wishing to be included or excluded. If there isn't a district, the County will take the initiative for the community.

Donald Ditty said he was in favor of expanding the district before the boundaries are set by the Commissioners.

A discussion ensued relative to the procedure of the hearing and the decision-making process the Commissioners would have to abide by.

Janet Stevens said written testimony will be accepted until February 26th. Written testimony carries the same weight as verbal testimony. A decision will be made by the Commissioners on or before March 4th.

Arield Wasem asked if a resident waited until a later date to hook up to sewer, if the cost of hooking up would be greater.

John DeVore said it depended entirely on the policies the board of directors would set up. In some districts, folks that hook up at a later date to the sewer would be charged a development fee or connection fee. This cost consists of their fair share of the original cost of construction plus any cost of expansion that would be required for the new users. These costs could equate to greater costs.

Arield Wasem said the district needs to be extended to all areas of the whole population in order to get everyone involved at the same time. That way all the residents would feel they were getting the same treatment.

Janet Stevens said after the boundaries are created, they can be expanded. The Commissioners will decide who will be in the district and what date the election of the trustees will occur.

Don Larson suggested a November election so if the district is created, then an orderly election of board members can be conducted.

Herb Townsend stated the election of Board members should be postponed until the district is established. He would like to see the boundaries remain flexible after they are created.

Joel Morris thanked the Commissioners for coming to Seeley Lake. He asked the Board how a block of people who don't want to be in the district can get out of it. He asked what would happen if the district is enlarged at this time and then it's found that there are a lot of people who don't want in the district?

Janet Stevens said the residents need to group together to talk about the boundaries. They should think about the boundaries based on precinct lines. The boundary lines should follow precinct lines, etc. It gets complicated for the elections office as far as who gets to vote if boundary lines don't follow these lines. A separate list will have to be made for those who don't live in the district, but have ownership of land within the district; and those who live within the district.

It was stated there was only one precinct line and one school district in Seeley Lake; these lines cannot be used as boundary lines for the district. Another method may be water district lines.

Ann Mary Dussault said a decision will be made by March 4th with an election set for May 19th. If the Board starts expanding the lines, there will be a whole new task for the Elections Office. The Board wants to make sure the Elections Office can get everything done by the election date.

David Whitesitt asked for a show of hands relative to enlarging the district to include Dog Town, the high school area and Double Arrow Ranch to the proposal.

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Don Richards said that just because a person resides within the boundary area, does not mean individuals will be hooked up to a sewer.

A discussion ensued relative to the boundaries and who the committee had asked to become part of the district.

Doreen Culver said a petition could be presented once the district was created, to expand or make the district smaller.

Ann Mary Dussault said there are two issues involved here. There is the political issue. She said the concerns of that issue are how many people can be squeezed into a district to get it passed. The second issue is what makes the most sense in terms of setting the boundaries from a land use and water resources protection basis that would outline the area that most reasonably be could be agreed upon. Planning could thus be done for the future. There are those who take up the political issue who want to expand the district in order to defeat the district.

Jim Richards said the residents need to do what is best for Seeley Lake. He said the district needs to be expanded in order for all to have a voice. He said that way, if the majority of the people don't want a district, then Seeley Lake won't have one.

A discussion ensued relative to the boundaries and how the district would conduct business after it was set up.

Ann Mary Dussault said it would be beneficial to the residents of Seeley Lake to get together and discuss this issue in a peaceful manner. She thanked the members of the committee that took the time to get involved and get the proposal and signatures together. She said tonight it was the counsel of the residents the Commissioners were seeking in order to form the boundaries of the district. In the end, the residents will make the final decision by way of an election.

The issue of a show of hands was brought up again. A straw vote was taken regarding how many residents were opposed to the expansion of the district and who was in favor of expanding the district. The result of the vote was equal representation by both sides of the issue. It was commented that to take a vote of only the people in attendance was not a good representation of the voters as a whole.

Joyce Morris stated she would like to see testing done to provide proof of contamination. She said she would like someone to come and test her property and asked how to go about getting the testing.

Janet Stevens said the testing could come through the Health Department. Also, if a sewer district was created, the district would provide that service.

A question was asked if it was a lengthy or costly process to expand the boundaries once the district was established.

Janet Stevens said the process of expanding the boundaries is similar to this process.

Marnie McClain said in order to extend the boundaries of the district, the residents would have to gather signatures on a petition and present it to the sewer district board. The board would then make the decision. The Commissioners are not involved after a sewer board is set up.

Another straw vote was taken. The Commissioners asked who was in favor of the district as it was proposed and who was in opposition to the proposed district. The outcome of the vote was again, equal representation by both sides of the issue.

Janet Stevens said that at least 40% of the majority of voters would have to vote in favor of the proposed district in order for it to pass. If only, for example, 39% of the voters showed up to vote, and the district was voted in, it would fail because a majority of the voters did not vote.

A general discussion ensued relative to the procedure for voting, including voting by mail ballot. Proof of being a registered voter, even though a property owner within the district lives out of the district, would have to be shown in order to vote.

Jim Richards asked if there was a consensus among the Commissioners regarding this issue.

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Janet Stevens said it would be premature to say until all the written comments have been received. The record will remain open until February 26th. The Board of County Commissioners will make a final decision on or before March 4th.

Janet Stevens asked for further public comment; there being none, the hearing was closed.

There being no further business to come before the Board, the hearing was adjourned at 9:30 p.m.

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FEBRUARY 20, 1992

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

Audit List

Commissioners Evans and Dussault signed the Audit List, dated February 19, 1992, pages 4-35, with a grand total of \$119,213.89. 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 Strand Avenue Lots, an amended subdivision plat & boundary agreement of the N 1/2 of Lot 14, Cobban & Dinsmore's Orchard Homes Addition No. #3 located in the SE 1/4 of Section 30, T. 13 N., R. 19 W. PMM Missoula County, with the owner/subdivider being Helen Price Swartz.

Quit Claim Deed

Chairman Evans signed a Quit Claim Deed from Missoula County to Larry K. and Sherryn M. Wilbert for the following parcels of land (as referenced in a Will and necessary for a probate matter):

Parcel I: The Southwest quarter of the Northwest quarter (SW 1/4 NW 1/4) of Section 19, T13N, R19W, MPM, Missoula County, Montana.

Parcel II: The Southeast quarter of the Northeast quarter (SE 1/4 NE 1/4) of Section 24, T13N, R20W, MPM, Missoula County, Montana.

Less and excepting therefrom any right, title or interest in any minerals, mineral rights or related matters, including but not limited to oil, gas, coal and other hydrocarbons. (As to both Parcels).

Proclamation

The Board of County Commissioners signed a Joint Proclamation with the City of Missoula proclaiming Saturday, March 21st, 1992, as "Roundup Missoula Day" and encourage all citizens to support this innovative and important program. The Proclamation will be read at the Commissioners Weekly Public Meeting of March 11, 1992.

Resolution No. 92-011

The Board of County Commissioners signed Resolution 92-011, a Resolution of Intent to conditionally rezone from "C-A1" (Open and Resource District) to "C-RR1" (Residential District) property described as a portion of Tract C, Certificate of Survey #3036, located in the S 1/2, SW 1/4, NE 14, of Section 13, T. 13 N., R. 19 W., PMM, (East Missoula area - Krumvieda's) Missoula County, Montana.

Other items included:

The Commissioners approved the appointments to the Chemical Dependency Advisory Council, as submitted by Ellen Leahy, Director of the City-County Health Department.

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FEBRUARY 21, 1992

The Board of County Commissioners did not meet in regular session. Commissioner Stevens attended a Mental Health Board in Kalispell; Commissioner Dussault left for Oakland, CA where she will speak at an Employment Conference; and Commissioner Evans was out of the office all day.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

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FEBRUARY 24, 1992

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.

DAILY ADMINISTRATIVE MEETING

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

Letter of Agreement

Chairman Evans signed a Letter of Agreement between the Missoula County Board of Trustees for Museums and the United Peoples PowWow and Cultural Rendezvous Committee for the purpose of conducting a Powwow and cultural rendezvous on the grounds of the Historical Museum at Fort Missoula, August 6-10, 1992, as per the terms set forth. The Agreement was returned to Bob Brown at the Historical Museum for further handling.

Resolution No. 92-012

The Board of County Commissioners signed Resolution 92-012, a Resolution accepting real property by an easement from the United States of America acting by and through the Forest Service, Dept. of Agriculture, for public road and all other public purposes, located in a portion of Lots 1, 2, 3, 4, and SE 1/4/ NE 1/4, Section 3, T. 12 N., R. 20 W., PMM, Missoula County, Montana and the N 1/2 SE 1/4 and SE 1/4 SE 1/4, Section 34, T. 13 N., R. 20 W., PMM, Missoula County, Montana (for Blue Mountain Road No. 30).

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

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FEBRUARY 25, 1992

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

Audit List

Commissioners Evans and Stevens signed the Audit List, dated February 24, 1992, pages 5-32, with a grand total of \$160,187.95. 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 Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for pay period #3 (1/19/92 - 2/01/92) with a total Missoula County Payroll of \$395,048.03. The Transmittal Sheet was returned to the Auditor's Office.

Warranty Deeds & Settlement Statements

The Board of County Commissioners signed Warranty Deeds and Settlement Statements from Missoula County to the following:

FEBRUARY 25, 1992 (CONT.)

Edward Hughs, Paradise, Montana for Lot 15, Block 2, El-Mar Estates Phase II, a platted subdivision in Missoula County, Montana, according to the official recorded plat thereof recorded in Book 11, of Plats at Page 23, records of Missoula County, Montana; and

Arnold C. James Johnson and Laurie Ann Johnson for Lot 5 of Michelle Addition, a platted subdivision of Missoula County, Montana, according to the official recorded plat thereof recorded in Book 14 of Plats at Page 94, records of Missoula County, Montana.

The Deeds and Settlement Statements were returned to Jim Dopp, Operations Officer, for further handling.

Approval of Application

The Board of County Commissioners signed approval of the Application for Tax Incentives for New or Expanding Manufacturing Industry Property Improvements or Modernized Processes from Northstar Air Express, Inc. for the operation of a new facility at the Missoula International Airport, as it does conform to the criteria set forth in the Resolution adopted on February 19, 1992.

Resolution No. 92-013

The Board of County Commissioners signed Resolution 92-013, annexing to the Missoula Rural Fire District the following parcels of land on Roller Coaster Road, and are to be assessed for said annexation a fire district levy along with other property already a part of the Missoula Rural Fire District:

Tracts 6 and 7 of COS NO. 2586; Tracts 10-A and 10-B of COS No 2978, Tracts 9A and 9B of COS No. 3116, and Tracts 8-A and 8-B of COS No. 3161.

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

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FEBRUARY 26, 1992

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

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond naming Vickie Born as principal for warrant #010169, dated February 20, 1992 on the Missoula County School District #4 Fund in the amount of \$673.15 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Warranty Deed, Settlement Statement, Escrow Agreement & Request for Reconveyance

The Board of County Commissioners signed a Warranty Deed, Settlement Statement, Escrow Agreement & Request for Reconveyance from Missoula County to Brenda Avery for Lot 1 of Michelle Addition, a platted subdivision of Missoula County, Montana, according to the official plat thereof recorded in Book 14 of Plats at page 97, records of Missoula County, Montana. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Agreement

The Board of County Commissioners signed an Agreement with Emery-Valcom Computers to extend the bid prices on the RFP for Micro-Computers, originally running from November 1, 1991 to January 31, 1992, and is now extended from February 1, 1992, through June 30, 1992.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Sharon Duckett, an independent contractor, for the purpose of providing staff support and acting as interim coordinator to the Housing Task Force and the various committees of the task force,

FEBRUARY 26, 1992 (CONT.)

conducting research into grant opportunities which meet the objectives of the task force, and writing grant applications at the direction of the Board of County Commissioners, as per the terms set forth for the period from March 1, 1992, through June 30, 1992, at the rate of \$13.00 per hour/ not to exceed \$3,000.00 for the duration of the contract.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Elizabeth Rantz, MD, an independent contractor, for the purpose of providing health care services as required in the Missoula County Detention Center for the care and keeping of inmates incarcerated therein, including performing normal examinations and diagnosis of the inmates of the Missoula County Detention Center, as per the terms set forth, commencing February 11, 1992, with compensation at the rate of \$50 per hour with a two-hour minimum.

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 1:40 p.m. by Chairman Barbara Evans. Also present were Commissioners Janet Stevens and Ann Mary Dussault.

BID AWARD: Prepared Aggregate Material (Surveyor)

Bob Holm, Operations Superintendent of the Surveyor's Office, explained that bids were opened at 10:00 a.m. on February 24, 1992, for furnishing and delivery of 3,000 cubic yards of prepared aggregate material. The following bids were received:

Johnson Brothers Contracting	\$ 8.82/c.y.	\$26,460.00
Western Materials	\$ 5.90/c.y.	\$17,700.00
L.S. Jensen & Sons, Inc.	\$10.25/c.y.	\$30,750.00

He said staff recommends the bid be awarded to Western Materials, Inc. to furnish and deliver 2,540 c.y. of prepared aggregate material. The County has \$15,000 in the FY'92 budget for this purchase. The fiscal impact for this purchase is \$14,986.00.

Janet Stevens moved and Ann Mary Dussault seconded the motion to award the contract to Western Materials, Inc. to furnish and deliver 2,540 cubic yards of prepared aggregate material. The motion carried on a vote of 3-0.

HEARING: Petition for Annexation into Missoula Rural Fire District (Mountain View Baptist Church on Mullan Road)

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor, that a petition had been 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 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 so they meet the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory. The following is a description of the area for annexation:

Tract 5-B of Certificate of Survey No. 3896; located in the Southwest quarter (SW 1/4) of Section 11, and the Northwest quarter (NW 1/4) of Section 14, all in Township 13 North, Range 20 West, P.M.M., Missoula County, Montana.

Barbara Evans opened the hearing to public comment; there being none, the hearing was closed.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the annexation to the Missoula Rural Fire District of the property described as: Tract 5-B of Certificate of Survey No. 3896; located in the Southwest quarter (SW 1/4) of Section 11, and the Northwest quarter (NW 1/4) of Section 14, all in Township 13 North, Range 20 West, P.M.M., Missoula County, Montana. The motion carried on a 3-0 vote.

FEBRUARY 26, 1992 (CONT.)Resolution No. 92-014

The Board of County Commissioners signed Resolution No. 92-013, a resolution approving the annexation to the Missoula Rural Fire District, the Mountain View Baptist Church on Mullan Road.

HEARING (Certificate of Survey Review): Use of Occasional Sale (Rossignol) Lot 1 COS No. 3308

Marnie McClain, Deputy County Attorney, explained that Tim Wolfe of Territorial Engineers submitted an occasional sale affidavit on behalf of Richard M. Rossignol. Mr. Rossignol proposes to divide COS No. 3308, which appears to be a 10.45 acre tract, to create a one acre parcel for sale to a residential buyer. This property appears to have been created when eight (8) 20-acre parcels were created in June, 1983. Mr. Rossignol was one of the parties who owned the property at that time. Mr. Rossignol's affidavit states that the parent parcel was later subject to an occasional sale and a relocation of common boundary.

According to the records kept by the Missoula County Surveyor, Richard M. Rossignol has an extensive history of the use of COS exemptions in Missoula County. He has used the occasional sale exemption in 1980; created eight parcels over 20 acres in 1983; created eleven (11) parcels over 20 acres in 1983; created a parcel for purposes of a gift to a family member with a remainder in 1984 and relocated boundaries in 1986. From a map, she showed the Commissioners the proposed occasional sale.

Barbara Evans opened the hearing to public comment.

Barbara Evans asked Mr. Rossignol what he was proposing to do with occasional sale split.

Richard Rossignol said he will build a spec house on the property and sell the piece as a package.

A discussion ensued relative to the history of the property and the history of Mr. Rossignol's dealings with the property. It was concluded that Mr. Rossignol's mother had previous ownership of several pieces of land, which had been transferred several times to her son.

Janet Stevens asked the purpose of splitting the property into 20 acre parcels.

Richard Rossignol said the family needed to survey the boundaries on the property. He said there isn't a fence on the whole property that he thought was within 50 yards of being where it should be. Also, the property was split for potential development. He would like to sell parcels more down the road and use the funding from that sale to finance long-term planning of the area.

Barbara Evans asked if and when he decides to do the aforementioned development, will he go through the certificate of survey process or through the subdivision process.

Richard Rossignol said he planned to go through the subdivision process. He said development would probably happen in approximately two years. He would like to do some aerial photos of the area, as well as research different avenues of the development process. He said he is not trying to evade the Subdivision Law or divide the ranch by using the certificate of survey process.

Barbara Evans said it is up to the Board to determine whether the land splits that he has done in the past and the one he is doing today are designed to evade the Subdivision Act.

Richard Rossignol said the property splits the family has done in the past are confusing; the confusion stems from family disputes and conflicts over the boundaries. He assured the Commissioners he is more than willing to follow the regulations of the Board. He said if he does decide to subdivide, it will be at a lower density than what the current planning office has it designed for. A general discussion ensued relative to the past land splits and what occurred.

Mr. Rossignol said he may have the boundaries realigned as he is not satisfied how they are aligned at this time.

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

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the use of an occasional sale of COS No. 3308 as it does not appear to evade the Montana Subdivision and Platting Act, and none of the other parcels have been transferred to other ownership. The motion carried on a vote of 3-0.

FEBRUARY 26, 1992 (CONT.)HEARING (Certificate of Survey Review): Use of Occasional Sale (Roy) Tract 1B, COS No. 1924

Marnie McClain explained that Dick Ainsworth of Professional Consultants, Inc. has submitted an affidavit on behalf of Walter and Geraldine Roy to divide Tract 1B, COS No. 1924, Meadows of Baron O'Keefe.

According to a letter from Mr. Ainsworth, Mr. and Mrs. Roy are contract purchasers of this 5.29 acre parcel from Geneva Cates. They intend to build a residence for themselves on one of the proposed parcels and offer the other for sale.

The parent parcel of this tract is the Cates Ranch, which was divided into 20+ acre tracts in the 1970's. According to Mr. Ainsworth, this parcel was originally Tract 1, COS No. 1677 and was then divided into four tracts via COS No. 1924.

According to the records kept by the Missoula County Surveyor's office, Mr. and Mrs. Roy have not previously divided property using exemptions to the Subdivision and Platting Act.

Barbara Evans opened the hearing to public comment.

Dick Ainsworth, PCI, stated the Roys' have never used an exemption. Their intention is to build their own home in the southern part of the property. They are not sure if they will sell the other portion of the property, but they would like to have the option in the future.

Ann Mary Dussault asked about the stipulation with the Cates, the previous owners of the property, that said the property would not be divided further.

Marnie McClain said the stipulation stated that any further division of property had to be reviewed and approved by the Commissioners.

Janet Stevens asked what they intend to do with the property.

Dick Ainsworth said it is their intention to buy the property; he doesn't know if they have yet closed on the property.

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

Janet Stevens moved and Barbara Evans seconded the motion to approve the request for the division of Tract 1B COS 1924, in the Meadows of Baron O'Keefe in that the applicants have not divided land and there appears to be no attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-1; with Ann Mary Dussault voting against the motion.

Ann Mary Dussault stated she voted against the motion, because in her opinion, the Meadows of Baron O'Keefe is the classic illegal subdivision created by certificate of survey. She said she recognizes the applicant does not have a history of land splits, and she does not mean to question their integrity. Her decision is based on the history of the parcel, which was subdivided through the exemption process.

HEARING (Certificate of Survey Review): Use of Occasional Sale (Roske) Book 238 Micro Page 2258

Marnie McClain explained that Malven and Ruby Roske have submitted a request for approval of an occasional sale, described at Book 238 Micro Page 2258. This tract of land is approximately 16 acres in size. Mr. and Mrs. Roske wish to sell a five acre-piece to a nearby landowner.

The parent parcel (a parcel approximately 18 acres in size), has previously been divided by the Roskes, but not before 1974. In 1969, Mr. and Mrs. Roske sold a one acre parcel to Barry Burke, a brother-in-law of one of their children. In 1971, Mr. and Mrs. Roske sold a one acre parcel to Richard and Shannon Roske, their son and daughter-in-law.

In 1979, the Roskes sold ten acres to Gilbert Dopp and Robert Todd. Dopp and Todd planned to subdivide the land. A plat, called Roske Addition, was filed in 1980. The developers were unable to obtain financing and ultimately defaulted on the purchase of the property. In accordance with an agreement between the parties and the Board County Commissioners, the plat was vacated in 1986 after the Roskes were unable to find anyone to buy and finish the subdivision. Mr. and Mrs. Roske propose to create a five-acre parcel out of the area that was previously platted as Roske Addition.

FEBRUARY 26, 1992 (CONT.)

According to the records kept by the Missoula County Surveyor's office, Mr. and Mrs. Roske have not previously used COS exemptions.

She said Mr. and Mrs. Roske have not been to a surveyor yet because they wanted to come before the Board and find out if they would be allowed to use an occasional sale; they didn't feel they could afford to go through the process of hiring a surveyor and having the survey done if they weren't able to use an occasional sale.

Mrs. Roske showed from an old map how the Roske's wanted to split the property.

Barbara Evans opened the hearing to public comment.

Marnie McClain said that sometime in the future the Roske's may want to sell a piece of the remaining property to their grandson in a year or so. They don't wish to subdivide the property.

The size of the parcel is now 16 acres under the ownership of the Roske's; 11 acres will remain with 5 acres being split.

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

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the occasional sale described at Book 238 Micro Page 2258 as requested by Malven and Ruby Roske, as the request does not appear to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

Marnie McClain explained to Mrs. Roske that on their next sale or division of property to their grandson, they will have to go through this process once more. Only one split of land per person can be done during a twelve month period.

HEARING (Certificate of Survey Review): Security Interest (McDonald) COS No. 3566

Marnie McClain, Deputy County Attorney, explained that Glenn Howard of Druyvestein, Johnson and Anderson has submitted an affidavit for a security interest exemption on behalf of Patrick G. McDonald. Mr. McDonald has apparently inherited some property with his sister. They wish to create separate ownerships of a tract with a residence upon it and a tract with a mobile home park. Mr. McDonald has provided a letter from Weymouth Symmes, Vice President of First Security Bank of Missoula, confirming that Mr. McDonald has made an application at their bank for a mortgage loan on the single family residence. In order to obtain the loan, they are requiring a survey which creates 3/4 acre parcel surrounding the residence and garage. According to Mr. Howard, Mr. McDonald will use the proceeds of the loan to buy out his sister's interest in the residence.

According to the records maintained by the Missoula County Surveyor, Mr. McDonald has previously filed a COS using the boundary relocation exemption in 1988.

Barbara Evans opened the hearing to public comment.

Ann Mary Dussault asked Mr. McDonald to clarify if he wanted to create separate ownership of the property or consolidate ownership with his sister?

Patrick McDonald said the 7 1/2 acres were previously owned by his mother who died in 1987; there were three children that the property was divided amongst evenly. He bought out his brother's interest in the property; he now owns 2/3 and his sister owns 1/3 of the property. The home he resides in is on his sister's property; he doesn't yet own the home entirely. He said at this point in time, he is under a time constraint because he has a commitment at the bank where he locked in on a loan at 8.5 percent which is scheduled to close by March 24th. He said he tried to do the whole thing in a two-step process. He would like to have the capability of mortgaging the piece of property he owns jointly with sister, then come back after the loan closed at the bank when there is more time to apply for an occasional sale in order to buy out his sister.

He said if time was not a factor, he would go through the normal process of an occasional sale. However, this would change the nature of the loan entirely. This process he says, will appear as a single family residence and the lower interest rate would apply to the loan.

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

FEBRUARY 26, 1992 (CONT.)

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the affidavit for a Security Interest exemption by Patrick G. McDonald for COS No. 3566. The motion carried on a vote 3-0.

There being no further business to come before the Board, the meeting was adjourned at 2:20 p.m.

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FEBRUARY 27, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens left for Washington, D.C. where she will attend the NACo Legislative Conference through March 3, 1992. In the afternoon, Commissioner Dussault participated in the "Americans with Disabilities Act" Management Workshop held at the Village Red Lion.

DAILY ADMINISTRATIVE MEETING

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

Notice Inviting Proposals for RSID No. 443

Chairman Evans signed a Notice Inviting Proposals for RSID No. 443, construction of a sewer main in the Carline, Butte Additions, Missoula County, Montana, as per the items set forth, with the bid to be awarded on March 25, 1992.

Resolution No. 92-016

The Board of County Commissioners signed Resolution No. 92-016, a Resolution creating RSID #443, construction of a sewer main in the Carline, Butte Addition, Missoula County, as per the terms and conditions set forth.

Addendum to Job Site Evaluation Agreement

The Board of County Commissioners signed an Addendum to the Job Site Evaluation Agreement with Community WORCenter to obtain and maintain in full force, Workers Compensation Insurance covering employee, Stephen Two-Wolves, at the Missoula County Library through the Community WORCenter rehabilitation program, and shall indemnify and hold harmless Missoula County from all claims involving this coverage.

The Addendum was returned to the Personnel Office for further handling.

Warranty Deed

The Board of County Commissioners signed a Warranty Deed from Missoula County to Aaron W. and Carol D. Sable for Lot 32 of Grantland #13, a platted subdivision in Missoula County, Montana, according to the official recorded plat thereof filed of record in Missoula County, Montana. The Deed was returned to Jim Dopp, Operations Officer, for further handling.

Notice of Hearing

Chairman Evans signed a Notice of Hearing on the application of Sun Mountain Sports for tax incentives under Resolution No. 91-101 regarding tax incentives for new and expanding industry, setting the hearing date for Wednesday, March 18, 1992 at 1:30 p.m.

Quitclaim Deeds

The Board of County Commissioners signed the following Quitclaim Deeds (7) from Missoula County to Glacier General Assurance Co. for redemption of tax deed property located in Missoula County:

SUID #5807251 - Westview #3, Lot 5, Block 7
 SUID #5807286 - Westview #3, Lot 8, Block 7
 SUID #5807266 - Westview #3, Lot 6, Block 7
 SUID #5807300 - Westview #3, Lot 10, Block 7
 SUID #5807313 - Westview #3, Lot 11, Block 7
 SUID #5806853 - Westview #3, Lot 2, Block 6
 SUID #5807544 - Westview #3, Lot 14, Block 8

FEBRUARY 27, 1992 (CONT.)

Extension Letter

The Board of County Commissioners signed a letter to Andy Fisher of Eli & Associates approving a 180-day filing extension for the Final Plat of Silverhill Estates, making the new filing deadline September 2, 1992.

Extension Letter

The Board of County Commissioners signed a letter to Dick Ainsworth of Professional Consultants, Inc. approving a 180-day filing extension for the Final Plat of King Ranch Phase I, making the new filing deadline August 15, 1992.


Other items included:

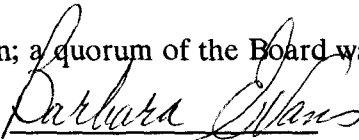
The Commissioners appointed E. E. "Buck" Smith as an "ad hoc" member of the Missoula County Fair Commission through December 31, 1993.

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

FEBRUARY 28, 1992

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


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

MARCH 2, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was in Washington, D.C. attending the NACo Legislative Conference through Tuesday, March 3rd.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 92-015

The Board of County Commissioners signed Resolution No. 92-015, a resolution accepting real property by an easement from Target Range School District No. 23 for public road as a temporary bus turnaround (O'Brien Creek Bus Turnaround) located in a portion of the SE 1/4 of Section 29, T. 13 N., R. 20 W., PMM, Missoula County.

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

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MARCH 3, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending February 28, 1992.

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'92 budget:

- 1) No. 92018, a request from the Sheriff's Department to transfer \$500.00 from the Dog Food and Care account to the Office Supplies account due to the demise of Thunder and the shortage in the Office Supplies budget;
- 2) No. 92019, a request from Justice Court/Financial Administration to transfer \$4,117.72 from the Financial Administration Term Reserve account to the Justice Court Permanent Salaries (\$3,524.16) and Fringe (\$593.56) accounts to cover Jean Weber's retirement pay-off; and
- 3) No. 92020, a request from the Museum Board to transfer \$1,326.00 from the Term Reserve account to the Common Carrier account for the Museum Trustees Conference.

Resolution No. 92-017

The Board of County Commissioners signed Resolution 92-017, a Budget Amendment for Capital Improvements, including the following expenditure and revenue, and adopting it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>Budget</u>
Capital - Cars & Phone Switch Upgrade 2410-250-414501-920	\$281,729.00

MARCH 3, 1992 (CONT.)

<u>Description of Revenue</u>	<u>Revenue</u>
INTERCAP 2410-250-383033	\$281,729.00

Resolution No. 92-018

The Board of County Commissioners signed Resolution 92-018, a Budget Amendment for the Health Department for FY'92, including the following expenditures and revenue and adopting it as part of the FY'92 budget:

<u>Description of Expenditures</u>	<u>From</u>	<u>Budget</u>	<u>To</u>
2270-613-444900-111 Perm. Salaries	\$195,732	\$196,394	
-141 Fringe Benefits	46,428	46,602	
-206 Office Supplies	<u>1,000</u>	<u>2,900</u>	
	\$243,160	\$245,896	

<u>Description of Revenue</u>	<u>From</u>	<u>Revenue</u>	<u>To</u>
2270-613-331147 WIC Grant	\$267,439	\$270,175	

Additional Funds were received per Modification of Agreement #320076-1.

Resolution No. 92-019

The Board of County Commissioners signed Resolution 92-019, a Budget Amendment for the Sheriff's Department for FY'92, including the following expenditure and revenue, and adopting it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>Budget</u>
State Prisoner Guard 1000-300-420230-150	\$13,769.97

<u>Description of Revenue</u>	<u>Revenue</u>
State Prisoner Guard 1000-300-333099	\$13,769.97

Notice of Sale of RSID Bonds

Chairman Evans signed the Notice of Sale of Bonds for RSID #443 in a total amount not to exceed \$48,000.00 for the purpose of construction of a sewer main extension in the Carline, Butte Additions, Missoula County, setting the sale date for March 25, 1992, at 1:30 p.m.

Other items included:

The Commissioners signed approval of the appointment of qualified registered voters of Missoula County (as listed on the form submitted by the Elections Office) as deputy registrars; and each deputy registrar will be required to complete the specified training by March 15, 1992. The document was returned to the Elections Office.

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

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MARCH 4, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Report of the Clerk of District Court, Kathleen Breuer, showing fees and collections made in Missoula County, Montana for the month ending February 20, 1992.

MARCH 4, 1992 (CONT.)Audit List

The Board of County Commissioners signed the Audit List dated 3/3/92, pages 5-27, with a grand total of \$86,688.01. 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:

Contract

The Board of County Commissioners signed a contract between Missoula County and Western Materials, Inc., the lowest and best bidder for 2,540 c.y. prepared aggregate material at the Ninemile Storage Yard, as per the terms set forth, for a total amount of \$14,986.00. The Contract was returned to Centralized Services for further handling.

Other items included:

The Commissioners reviewed a proposal from Estate Investigations to recover two bank account balances which supposedly belong to Missoula County for a finder's fee of 50% of the amount "discovered"; the decision made by the Commissioners was not to sign a contract with this firm.

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 a.m. by Chairman Barbara Evans. Also present were Commissioners Janet Stevens and Ann Mary Dussault.

DECISION ON: Proposed Seeley Lake Sewer District

Barbara Evans explained from information received from Sharyn Solum, Administrative Assistant for the Board of County Commissioners that Public Hearings relative to creating a proposed Seeley Lake Sewer District were conducted by the Board of County Commissioners on February 19, 1992 in Missoula and Seeley Lake. Written comments were received through February 26. The decision today is to set the boundaries for the proposed sewer district and to schedule the election for May 19, 1992 to determine if the district would be incorporated as a County Sewer District pursuant to Montana Law.

A general discussion ensued relative to the election of the Sewer District Board of Directors if the District is approved by the voters.

Wendy Cromwell, Clerk and Recorder, said that after a District is formed, there are 120 days to elect a Board of Directors. The June 2nd Primary could be used for the election of the directors if the District is approved. The filing deadline would be March 19th. The election would be advertised again and the petitions already held by the Clerk and Records Office would be accepted. If the district is indeed created, a separate mailing would be sent with a Board of Directors ballot to anyone who voted absentee before May 19th.

Janet Stevens moved and Ann Mary Dussault seconded the motion to set the boundaries for the proposed Seeley Lake Sewer District as submitted by the petition, and to set the election of the Sewer District Board of Directors on the June 2nd Primary if the District is formed May 19th by mail ballot. The motion carried on a vote of 3-0.

Ann Mary Dussault stated that the Board received written comments relative to various changes in the district. She feels that the current district is not large enough to support a sewer, if and when there is ever one constructed in Seeley Lake. The boundaries will have to be expanded to include a much larger area. She said the Board does not have sufficient data to expand the boundaries at this time.

There being no further business to come before the Board, the meeting was adjourned at 1:45 p.m.

* * * * *

MARCH 5, 1992

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

MARCH 5, 1992 (CONT.)

DAILY ADMINISTRATIVE MEETING

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

Plat & Approval of Declaration of Covenant

The Board of County Commissioners signed the Plat for Fullerton Tracts, a subdivision located in the SW 1/4, Sec. 8, T. 13 N., R.20 W., PMM, Missoula County, with the owners of record being Hal Fullerton and Vicky J. Nicholas. The Commissioners also signed approval of the following Declaration of Covenant by the owners and is on file in the Clerk & Recorder's Office:

Lots 1, 2, 3, and 4 of Fullerton Tracts, a recorded subdivision of Missoula County shall never be subdivided into lots smaller than five (5) acres and that all lots in Fullerton Tracts shall be used for single-family dwellings.

Loan Closing Documents

Chairman Evans signed the loan closing documents for Missoula County to enter into a loan amount of \$36,905.00 on March 20, 1992, with the State Board of Investments for the purchase of four vehicles, for a term of three years, through February 15, 1995. The documents were returned to John DeVore, Administrative Officer, for further handling.

Quit Claim Deed

Chairman Evans signed a Quit Claim Deed from Missoula County to David Theisen for real estate situated in the NE 1/4 of Section 22, T. 14 N., R. 20 W., PMM., Missoula County - Lots 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 19, 20 and 21 of Bay Meadows Addition, in consideration of the signing of a subdivision improvements guarantee by David Theisen guaranteeing the completion of subdivision improvements for Spring Meadows Addition. The Deed was returned to Marnie McClain, Deputy County Attorney, for further handling.

Policy Statement No. 92-A - Bomb Threats & Attachment 1 - Covert Search Procedure

The Board of County Commissioners signed Policy Statement No. 92-A, dated March 4, 1992, regarding Bomb Threats, and replaces Policy Statement No. 86-A, for the purpose of establishing policy and procedure for bomb threats made against facilities of Missoula County government, as per the items set forth in the Policy.

Also signed was an attachment to Policy Statement 92-A, Covert Search Procedure, for the purpose of setting forth the procedure for those selected by the Department Heads to conduct a search of an assigned area in the event of a bomb threat and to conduct this search without drawing attention to yourself and without telling others what you are searching for.

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


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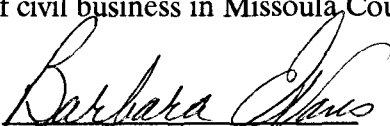
MARCH 6, 1992

The Board of County Commissioners met in regular session; all three members were present in the forenoon. In the afternoon, Commissioner Stevens served as a judge at the County Spelling Bee held at the Hellgate High School Auditorium.

Monthly Report

Chairman Evans 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 the month ending February 28, 1992.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

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MARCH 9, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Dussault was in Emmitsburg, MD March 9th and 10th to speak at a FEMA Conference being held there.

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 Donna Wierson, an independent contractor, to provide professional nursing services as required by persons incarcerated in the Missoula County Detention Center, as per the terms set forth, for the period commencing February 18, 1992, at a rate of \$13.00 per hour, with a two-hour minimum.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Nancy Leifer, an independent contractor, for the purpose of providing staff support and acting as the Interim Coordinator to the Housing Task Force and the various committees of the task force, as per the items and terms set forth, beginning March 6th, 1992, through June 30th, 1992, at the rate of \$13.00 per hour, not to exceed \$2,500.00

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and the Center for Population Research (C.P.R.) of the University of Montana, an independent contractor, for the purpose of preparing a machine-readable data set from completed questionnaires provided by the County to identify and analyze SED (severely emotionally disturbed) Children, preparing an analysis of these data, preparing a final report, providing consultation and oral presentations as needed, as per the terms set forth, commencing on February 17, 1992, and conclude on the 31st day of March, 1992, for a total payment of \$7,500.00.

Other items included:

- 1) the Commissioners approved using Arthur Gallagher for broker services for FY'93, as per the recommendation of Hal Luttschwager, Risk Manager;
- 2) as per the recommendation of the Deferred Compensation Committee, the Commissioners concurred that no RFP for additional Approved Providers be made for FY'93 as the two current Approved Providers are adequate to meet the needs of the participants; and
- 3) Bid Award - as per the recommendation of Vickie M. Zeier, Recording Supervisor, the Commissioners awarded the contract for tax deed title searches to First Montana Title Company at the rate of \$70/parcel, and \$20 hourly rate for complex searches.

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

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MARCH 10, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. In the evening, Commissioner Evans attended a public forum held at the Holiday Inn for the three finalists for the OCD Director position.

* * * * *

MARCH 11, 1992

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

Audit List

Commissioners Evans and Stevens signed the Audit List dated 3/10/92, pages 4-33, with a grand total of \$67,084.94. The Audit List was returned to the Accounting Department.

MARCH 11, 1992 (CONT.)Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for the month ending February 29, 1992.

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:35 p.m. by Chairman Barbara Evans. Also present were Commissioners Ann Mary Dussault and Janet Stevens.

PROCLAMATION: "ROUNDUP MISSOULA DAY"

WHEREAS, ROUNDUP MISSOULA, was formed by Missoula citizens to address a serious long-standing problem of capital improvements for human services agencies; and

WHEREAS, ROUNDUP MISSOULA, provides a unique opportunity for local citizens to painlessly donate small change at the registers to fund capital improvements for local human services agencies; and

WHEREAS, ROUNDUP MISSOULA, represents an authentic example of caring for its own and solving a local problem locally; and

WHEREAS, The ROUNDUP MISSOULA, campaign will run from March 21 through June 20 this year and will target Missoula Youth Homes' Attention Home Needs; and

WHEREAS, The ROUNDUP MISSOULA campaign has received strong support from local advertisers, retailers and individuals;

NOW, THEREFORE, we, the Board of County Commissioners and the Mayor of the City of Missoula do hereby proclaim Saturday, March 21, 1992 to be "ROUNDUP MISSOULA DAY" and encourage all citizens to support this innovative and important program.

The Proclamation was signed by the Board of County Commissioners and the Mayor, Dan Kemmis.

CONSIDERATION OF: MORMON CREEK MEADOWS NO. 2 (SUMMARY PLAT)

Barbara Martens, Office of Community Development, explained that Mormon Creek Meadows No. 2 is a five lot rural subdivision located on the south side of Mormon Creek Road in Lolo. The total area is 2.579. The developer, Ken Allen, intends to develop five lots at the current time and if the lot sales are successful, will plat an additional five lots. Access to the subdivision is from Mormon Creek Road, which is a paved County maintained road. Sapphire Lane intersects with Mormon Creek Road and runs south 640 feet to Ruby Lane, which provides frontage to this development. Two variances are being requested and are as follows:

1. Right-of-Way. The developer is requesting a variance for the right-of-way width requirement of 54' to 47'. The developer states that the Certificate of Survey to the north has only provided a 20' easement. The developer of this project will dedicate 27' or half of the required 54'. At some point in the future, an additional 7 feet could be obtained from the property to the north. The staff recommends that the variance be granted.

2. Road Paving Requirements. The developer is requesting a variance from the road paving requirement. Ruby Lane will provide access to nine homes if this subdivision is approved. The staff recommends that the variance be granted with the requirement that the lots within this subdivision waive their right to protest a future RSID for the upgrading of Ruby Lane, Sapphire Lane and Mormon Creek Road. This subdivision is located outside of the Air-stagnation Non-Attainment Zone.

The Office of Community Development staff recommends that the summary plat for Mormon Creek Meadows No. 2 be approved, subject to the conditions as follows:

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

2. The developer shall include a statement on the subdivision plat which states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owner to any future RSID for the upgrading of Ruby Lane, Sapphire Lane or Mormon Creek Road and shall be used in lieu of their signatures on an RSID petition.

3. Cash-in-lieu of parkland shall be accepted by the County and so noted on the face of the plat.

MARCH 11, 1992 (CONT.)

4. The developer shall place the following statement on the face of the plat:

"The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner or property-owners' association and that the County of Missoula is in no way obligated until the roads are brought up to standard and accepted by the County of Missoula."

5. 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.

6. The developer shall file Property-owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State.

7. Grading and drainage plans shall be approved by the County Surveyor's Office.

8. The developer shall enter into an agreement with the Missoula Rural Fire District to address water supply. A water supply system shall be installed with the platting of any additional lots by the developer.

Nick Kaufman, Sorenson & Company, encouraged the Board to adopt the two variances. With regard to the Fire Department condition, he said he appreciated the fact that this condition had been worked out with the Department.

A discussion ensued relative to the easement variance.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve Mormon Creek Meadows No. 2 Summary Plat subject to the following conditions:

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

2. The developer shall include a statement on the subdivision plat which states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owner to any future RSID for the upgrading of Ruby Lane, Sapphire Lane or Mormon Creek Road and shall be used in lieu of their signatures on an RSID petition;

3. Cash-in-lieu of parkland shall be accepted by the County and so noted on the face of the plat;

4. The developer shall place the following statement on the face of the plat:

"The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner or property-owners' association and that the County of Missoula is in no way obligated until the roads are brought up to stands and accepted by the County of Missoula";

5. 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;

6. The developer shall file Property-owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State;

7. Grading and drainage plans shall be approved by the County Surveyor's Office;

8. The developer shall enter into an agreement with the Missoula Rural Fire District to address water supply. A water supply system shall be installed with the platting of any additional lots by the developer; and that the following variance be granted:

1. Right-of-Way. The developer is requesting a variance for the right-of-way width requirement of 54' to 47'. The developer states that the Certificate of Survey to the north has only provided a 20' easement. The developer of this project will dedicate 27' or half of the required 54'. At some point in the future, an additional 7 feet could be obtained from the property to the north. The staff recommends that the variance be granted;

MARCH 11, 1992 (CONT.)

2. Road Paving Requirements. The developer is requesting a variance from the road paving requirement. Ruby Lane will provide access to nine homes if this subdivision is approved. The staff recommends that the variance be granted with the requirement that the lots within this subdivision waive their right to protest a future RSID for the upgrading of Ruby Lane, Sapphire Lane and Mormon Creek Road. This subdivision is located outside of the Air-Stagnation Non-Attainment Zone.

The motion carried on a vote of 3-0.

HEARING: COUNTRY CREST NO. 2 (SUMMARY PLAT)

John Mangiameli, Office of Community Development, explained that Country Crest No. 2 is a proposed five lot, single family subdivision. Each lot is approximately 1 acre. The total project covers 6.26 acres. The proposed subdivision is located north of Mullan Road directly across from Sunset Memorial Gardens. All lots will access onto interior roadways. Country Crest Summary Plat is the second summary plat for this property and is the precursor of a future preliminary plat for the remainder of the 100 acre parcel. The owner of the property, Betty Deschamps, is using this summary plat along with the previous summary plat to test the market and gather capital.

In the Findings of Fact section of the staff report, John Mangiameli amended Criterion #4 -- Roads, to read, "The developer is required to pave the driveway a minimum of 20 feet back from the roadway." Under Criterion #4 -- Parks and Recreation, he said the staff recommended the developers request that common area be accepted for the property and not cash-in-lieu. There is an integrated and coordinated pedestrian greenway proposed in the masterplan area. The OCD staff feels the dedication of common area would be better than accepting cash-in-lieu. He deleted Condition No. 5 in the staff report, as it is a duplication.

The Office of Community Development staff recommends that County Crest No. 2 Summary Plat be approved, subject to the conditions 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. The developer shall establish a berm along the southwest boundary of Lot 9. The covenants shall state that the berm shall be landscaped by the lot owner at the time of construction. Landscaping the berm with native vegetation is encouraged.
4. All driveways accessing a paved road shall be paved a minimum of 20 feet back from the roadway. Such provision shall be made in the covenants or at the time of construction.
5. Road and drainage plans shall be approved by the County Surveyor.
6. Approach permits are required for all lots.
7. There shall be a one foot no access strip on Lot 9 along Mullan Road. This shall be shown on the face of the plat. Lot 9 shall access onto Arroyo Lane.
8. The covenants shall include a sentence in Section 27 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 obtain a copy of "Living with Wildlife" either for the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, 523-4657, or Rural Planning, Missoula County Courthouse Annex, 200 West Broadway, Missoula, MT 59802, 523-3484. Where feasible, a copy of "Living with Wildlife" should be given to lot purchasers.
9. All lot purchasers shall be informed of any adverse soil characteristics that would require special design or construction standards. The covenants shall state:

SOIL CONSIDERATIONS. The soils in Country Crest No. 2 are silty clay loams. While these soils are excellent for lawns and landscaping, there are some special considerations for building on clay soils. In order to ensure consideration is given to the soil characteristics, the Architectural Control Committee will require the following items on each site review submittal:

1. Notation for adequate compaction of foundation areas including utility trenches under foundations and driveways.

MARCH 11, 1992 (CONT.)

2. Notation for suitable compacted backfill around foundation.
3. Demonstrate positive yard grade away from foundations and driveways.
4. All gutters and downspouts drain away from foundations and driveways.
5. All foundations be designed for depth and bearing in accordance with the Uniform Building Code.
6. That all plans submitted to the Building Inspector for permits contain the following notation with the foundation plan:

Based on Soil Conservation Service data, the unified soil classification is "CL", clays. Soils have a moderate plasticity index which ranges from 10-25. Soils are characterized by moderate shrink-swell potential and low soil strength.

10. The developer shall petition for annexation and be annexed into the rural fire protection district.
11. The developer shall include on the plat or submit plans to the City-County Health Department that state or show the following as they apply:
 1. A waiver of the right to protest a sewer SID or RSID be filed on the plat, and other conditions which the City may require as a condition of connection.
 2. Dry laying of the sewer collection system in the public right-of-way.
 3. Dry laying sewer line on each lot from the septic tank to the right-of-way collection system.
 4. As an alternate to 2. and 3. above, install a community system designed to be easily connected to the municipal sewer.
 5. If individual septic tanks are used, they should be S.T.E.P. tanks approved by the City of Missoula. All system designs should provide for connection to a sewer main laid in the Mullan Road right-of-way.
 6. If portions of a proposed subdivision are served entirely by an existing paved right-of-way, dry laying of sewer in the street is not required for that portion of the proposed subdivision. However, the developer shall dry lay sewer line on each lot from the septic tank to the right-of-way, as required in 3. above.
 7. A set of plans showing how the subdivision septic disposal system is designed for eventual connection to public sewer.
 8. Pavement runoff disposal design which uses soil infiltration (commonly called grassy swales) as an alternate to shallow injection wells (commonly called sumps or french drains).
12. The developer shall install a well and pump with a Fire Department connection on Grassland Drive, near the entrance of the Grassland Acres Subdivision, and shall be subject to the approval of the Missoula Rural Fire District.
13. Acceptance of a deed for a lot in this subdivision shall constitute the assent of the owner to waive the right to protest a community water system SID or RSID.
14. Any of the above waivers stated shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land depicted on the deed.
15. All documents of conveyance shall contain a reference to the covenants and waivers contained within the deed.
16. 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.
17. Grading drainage street and erosion control plan shall be approved by the County Surveyor.

MARCH 11, 1992 (CONT.)

18. The developer shall file Property-Owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State.

The hearing was opened to public comment.

Nick Kaufman of Sorenson & Company, reviewed the Masterplan for the subdivision by use of a map/drawing. Greenways, future planning for sewer and water systems and roadways were explained. He asked that Condition No. 11 be deleted because much of the items contained within that condition need to be discussed before accepting the condition. He said he would like to work with the various agencies before accepting Conditions 11 through 15. He asked that the Commissioners approve the summary plat subject to Conditions 1 through 10 with the exception of No. 5 and 11 through 15; and including 16 through 18.

Jim Carlson of the Health Department, said it was not the intention of the department to change the rules in the middle of the game. There are some overall concerns in this neighborhood that they have expressed previously with regard to the potential impact of all these systems, particularly in the low-lying lands.

A general discussion ensued relative to the sewerage of the subdivision and if the Condition No. 11 should be included in the present phase or in future phases of the subdivision.

Nick Kaufman said the first ten tracts have been designed as one acre tracts; therefore, there isn't a need for Condition No. 11 at this point in time. He said he would like to keep the first ten tracts consistent.

John Mangiameli said that an evaluation is being made on the masterplan as a whole and approval/disapproval is being given on for this specific subdivision; a decision has to be made whether the benefits to the whole community outweigh the potential costs involved in establishing these conditions for this specific subdivision. There is ample opportunity to work out some of the conditions and how this whole masterplan looks and how it is integrated with the rest of the negotiations that will occur for the Mullan Road development. He said what is being dealt with today is this specific subdivision. He indicated that meetings had been held with the developers and the various agencies with adequate notification. The developer and his representatives were aware of those negotiations.

Nick Kaufman said the developers are trying to be cooperative by working with the various agencies. He said they are continuously developing the plan and trying to work together.

Barbara Evans asked Horace Brown what he thought about the above-mentioned conditions OCD would like to add to the subdivision.

Horace Brown said he didn't have a problem with the S.T.E.P. system; it wouldn't affect the road. The dry lines under the road would be nice, but the lines wouldn't necessarily be needed there beforehand; they can be placed outside of the pavement. The green area could also be used for some of the lines. He said he wasn't sure that is it really necessary to require.

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

Ann Mary Dussault asked the developers what is going to happen next to this subdivision. She said she wanted to be sure what is going to happen next.

Nick Kaufman said the developers planned to do one or two summary plats. Phase III will be a major subdivision. The next thing that will be submitted will be a masterplan for the entire area and a major subdivision.

Ann Mary Dussault asked if there was any possibility that Phase III will not be submitted.

Nick Kaufman stated there is a possibility because of the economy, etc.; however, the probability is that there will be a Phase III.

Ann Mary Dussault said that the Board is being asked to make a decision based on the fact that there will be a Phase III; specifically issues relative to sewerage and fire protection. She said her concern is that something will happen and there won't be a Phase III.

Nick Kaufman said barring any national economic disaster to delay the submittal of Phase III, he says it will come in during the month of March.

Ann Mary Dussault stated she didn't have an issue with deleting the majority of the language in item 11, but she said she is having difficulty in understanding why they shouldn't include a waiver of a right to protest a RSID.

Nick Kaufman said that when a resident waives the right to a blanket RSID or a RSID to extend sewer, the resident has no idea what is going to be built, where, or when it will be built; if it will serve the resident or what the costs are. It is a very open-ended request. During the next month, with all the developments going in in this area, there is time to pin these issues down.

A discussion ensued relative to informing consumers of the chance there may be sewer in the future.

Jim Carlson said he feels it is appropriate to warn the perspective buyers of the lots that they may legally end up in a situation of paying a considerable amount of money for public services in the future. He said it is good planning and honesty.

Nick Kaufman suggested Condition No. 15 be amended to read, "All documents of conveyance shall contain a reference to the fact that RSID for public services, which may include sewer and/or water, could be applied to the Mullan Road area in the future."

Barbara Evans asked if this wording would be sufficient for notification to the public.

Michael Sehestedt, Deputy County Attorney, stated that the language in Condition No. 11 relative to RSID's may be able to be written more tightly in order to assure that these people may in fact be participating in facilitating the creation of an eventual RSID. He said the language could be tightened to serve specifically this subdivision and would eliminate the fear of something down the road.

Janet Stevens said she felt the Board was interrupting a process that had already started, with questions relative to tightening up the language. She said that she didn't feel it was fair to be discussing this issue here when the Board asked the developer to sit down to do that as an overall plan.

Barbara Evans asked whether it was possible to come up with some language that could allow the waivers that would guarantee to the purchasers of the lot in those subdivisions that they would be waiving their right to things that will serve them only; if it doesn't serve them, they are not waiving their right.

Nick Kaufman said the potential buyers will not expect waivers on these lots. He said the agencies and developers need to be allowed to work through the conditions so there is some flexibility.

Ann Mary Dussault asked if, in Phase III, which is the master plan, there is a staff recommendation and a minimum to waive the right to protest an RSID for a sewer system, will the developer support that recommendation?

Nick Kaufman said that as long as the recommendation provides future benefit to this project. The answer would be "no" if there was no assurance that an RSID would benefit this project.

John Mangiameli said that regardless of how large or how small this subdivision is, it is an integral part of what is going on in the entire area. It is the OCD staff's opinion that this subdivision should be held to the same standard as the remainder of those areas to be developed.

Barbara Evans said she agreed with what John Mangiameli said, but she does not approve of changing rules in the middle of the game; she doesn't feel it would be fair. She said this doesn't mean that she doesn't agree that the issue on Mullan Road needs to be looked at as an overall picture and try to come to some conclusions that will be beneficial to the whole picture.

Janet Stevens moved and Barbara Evans seconded the motion to approve Country Crest No. 2 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 developer shall establish a berm along the southwest boundary of Lot 9. The covenants shall state that the berm shall be landscaped by the lot owner at the time of construction. Landscaping the berm with native vegetation is encouraged.
4. All driveways accessing a paved road shall be paved a minimum of 20 feet back from the roadway. Such provision shall be made in the covenants or at the time of construction.

MARCH 11, 1992 (CONT.)

5. Approach permits are required for all lots.
6. There shall be a one foot no access strip on Lot 9 along Mullan Road. This shall be shown on the face of the plat. Lot 9 shall access onto Arroyo Lane.
7. The covenants shall include a sentence in Section 27 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 obtain a copy of "Living with Wildlife" either for the Office of Community Development, City Hall, 435 Ryman, Missoula, MT 59802, 523-4657, or Rural Planning, Missoula County Courthouse Annex, 200 West Broadway, Missoula, MT 59802, 523-3484. Where feasible, a copy of "Living with Wildlife" should be given to lot purchasers.
8. All lot purchasers shall be informed of any adverse soil characteristics that would require special design or construction standards. The covenants shall state:

SOIL CONSIDERATIONS. The soils in Country Crest No. 2 are silty clay loams. While these soils are excellent for lawns and landscaping, there are some special considerations for building on clay soils. In order to ensure consideration is given to the soil characteristics, the Architectural Control Committee will require the following items on each site review submittal:

1. Notation for adequate compaction of foundation areas including utility trenches under foundations and driveways.
2. Notation for suitable compacted backfill around foundation.
3. Demonstrate positive yard grade away from foundations and driveways.
4. All gutters and downspouts drain away from foundations and driveways.
5. All foundations be designed for depth and bearing in accordance with the Uniform Building Code.
6. That all plans submitted to the Building Inspector for permits contain the following notation with the foundation plan:

Based on Soil Conservation Service data, the unified soil classification is "CL", clays. Soils have a moderate plasticity index which ranges from 10-25. Soils are characterized by moderate shrink-swell potential and low soil strength.
9. The developer shall petition for annexation and be annexed into the rural fire protection district.
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. Grading drainage street and erosion control plan shall be approved by the County Surveyor.
12. The developer shall file Property-Owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State.

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

Janet Stevens said that Phase III must have some kind of plan where the residents will waive their right to protest sewer and water systems. She said that she will not vote for Phase III unless it does have those items included. She said her understanding of what Nick Kaufman said is that if there was no clarification about what kind of sewer or water system or some kind of tightening of those conditions, he would not accept them as they are laid out. She said she didn't hear him say he wouldn't accept some kind of compromise. Nick Kaufman agreed with that statement.

Ann Mary Dussault explained her reasons for opposing the motion. She said she did not understand, despite Mr. Kaufman's explanation, why there is a refusal to include the waiver of the right to protest an RSID. She said she would suggest this is a common practice for one phase of infrastructure which is roads in that we have enough history in this valley now in two or three different parts where we have failed to get this kind of thing on the record in the past and are now at points where we've had to wait

MARCH 11, 1992 (CONT.)

for the State Health Department to force us into making those decisions. She said she sees it ultimately as a reasonable request and does not understand the reasons therefore and cannot support the subdivision. She said that she will absolutely not support Phase III unless this issue is clearly dealt with.

Janet Stevens said the difference between a road RSID and a sewer/water RSID is that a road is there and a person knows where it is and what will happen to it. With a sewer and water RSID, there are so many alternatives that it is critical, she says to her to at least pin down the kinds of sewers and water systems for the whole area; this needs to be discussed.

HEARING: REQUEST TO VACATE PORTION OF ROAD LOCATED IN SECTION 35, T. 12 N., R. 21 W. (REQUESTED BY DAVE TRUSTY)

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor in the Clerk and Records Office, that a petition to vacate "Unnamed Road", located in NW 1/4 of SE 1/4, Section 35, T12N, R21W from North-South Mid-Section Line of Section 35 T12N, R21W to a line extending Northeasterly from NE corner of Lot 10, Loloview Acres, P.M.M., Missoula County, Montana. The reason for this request is because no one else is using the road. The following landowners were notified of the hearing: Arthur Greydanus, David Trusty, Roy and Stella Van Ostrand, and Harold and Rose Marie Cromwell.

She read a letter that was received from Roy and Stella Van Ostrand:

"This statement is not a protest to the attached "Notice of Public Hearing".

The road in question is a small section of the "old" Lolo Creek Road.

We, the undersigned, would deem it beneficial to the County to vacate all of the old road that traverses Section 35 T. 12 N. R. 21 W. We own all the land on each side of said road and do not in the foreseeable future intend to use any of it for public access. It will be open at all times for fire control.

The County Road Department has not been on this road to maintain since 1948, after the present Highway 12 was opened.

It would be beneficial for the County to vacate all of the old Lolo Creek Road since this road has been abandoned.

In many places, buildings have been erected and to have these taken out would be a hardship on all the present owners.

If it would please the Commissioners, I would make myself available to go with one of the County Highway Department and show them where the old Lolo Creek Road was and where buildings are.

The parking lot for the Woodman School is also on the old Lolo Creek Road right of way.

Section numbers for the vacation would have to be supplied by the County.

Please take affirmative action on this matter."

Wendy Cromwell, Clerk and Recorder, said the legal requirements have been met; the notice of the vacation was published.

Horace Brown, County Surveyor, said the vacation needs to be inspected before a decision could be made on this matter. He said it is the old Highway 12 and is not used. He said he sees no reason to continue with it.

Janet Stevens asked what portion of the road they were also wanting to vacate.

A general discussion ensued relative to the vacation of the rest of the old Highway 12. It was decided that only petitioned land that had been noticed in the newspaper could be vacated at this time. It is a legal requirement that notice of the intent to vacate be published in the newspaper. Ten freeholders would have to petition to vacate the rest of road they wanted vacated. However,

MARCH 11, 1992 (CONT.)

it was discussed that since the \$75.00 fee to vacate had already been paid, the Board could waive the fee for the rest of the road vacation.

Barbara Evans stated that the decision to vacate will be postponed until March 18th in order to view the portion of road to be vacated.

Janet Stevens moved and Ann Mary Dussault seconded the motion to waive the \$75.00 fee for the request to vacate the remainder of the section of road. The motion carried on a vote of 3-0.

HEARING: (CERTIFICATE OF SURVEY REVIEW) USE OF OCCASIONAL SALE (LEISTIKO)

Marnie McClain, Deputy County Attorney, explained that Donald Wester has submitted a request for approval of an occasional sale on behalf of Margaret Leistiko. The parcel to be divided is described at Book 106 Page 1082. The original parcel is approximately 151 acres in size. Mrs. Leistiko also owns another 80 acres in another section adjacent to the section in which this parcel is located. Mrs. Leistiko wishes to donate the subdivided parcel approximately two acres in size to the Catholic Church for the construction of a church. This piece of property is located about a mile north of the Condon store on Highway 93 almost in Lake County.

She said according to the records kept by the Missoula County Surveyor's Office, Mrs. Leistiko and her husband used the occasional sale exemption in 1981 when they sold a five or six acre parcel.

She said Mrs. Leistiko is an elderly lady who prefers not to travel. If the Board has any additional questions that she cannot answer, Mrs. Leistiko will make arrangements to have someone come down next week to answer any questions.

The hearing was opened to public comment; there being none, the hearing was closed.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the occasional sale request from Margaret Leistiko for division of Book 106 Page 1082, based on the fact there appears to be no intent to evade the Montana Subdivision and Platting Law. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the meeting was adjourned at 2:40 p.m.

* * * * *

MARCH 12, 1992

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'92 budget:

- 1) No. 92021, a request from the Health Department to transfer \$1,450.00 from the Temporary Salaries account to the Capital - Office Equipment account for the purpose of purchasing a DTK computer system;
- 2) No. 92022, a request from the Rural Planning Department to transfer \$2,500.00 from the Contracted Services account to the Permanent Salaries account in order to complete the resource inventory; and
- 3) No. 92023, a request from the Weed Department to transfer \$1,600.00 from the Small Tools account to the Capital account to purchase a computer in order to provide more accountability with their grants.

MARCH 12, 1992 (CONT.)

Agreement and Conveyance of Water Rights

The Board of County Commissioners signed an Agreement and Conveyance of Water Rights between Missoula County and Appleway Chevrolet, Inc., a Washington Corporation, whereby the County will transfer to adjacent Appleway property the irrigation water rights from Marshall Creek appropriated to the 6.199 acres of public roadways located within the Sunny Meadows Subdivision. The Agreement was returned to Dusty Deschamps, County Attorney, for further signatures and handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and the Missoula Indian Alcohol Services (MIADS) for the purpose of providing outpatient alcohol and drug treatment for MIADS clients in accordance with ADAD guidelines, as per the terms set forth, commencing on March 10, 1992, and concluding on December 31, 1992, for a total payment of \$12,000.00, contingent upon receipt of St. Patrick Hospital contribution.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Jeanne Sheils Twohig, an independent contractor, for the purpose of preparing the Department of Health and Human Services Community Health Center (CHC) application for Partnership for Access, including document necessary for Federal Medically Underserved area designation, as per the terms set forth, beginning March 4, 1992, and concluding by June 1, 1992, for a total payment of \$4,000.


Other items included:

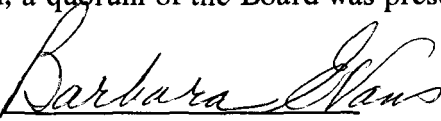
The Commissioners reviewed and approved the audit of the Missoula City-County Health Department's Animal Control Office for Fiscal Year 1991, July 1, 1990 to June 30, 1991, as submitted by the County Auditor. The audit was forwarded to the Clerk & Recorder's Office for filing.

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

MARCH 13, 1992

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


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

MARCH 16, 1992

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:

Proclamation

The Board of County Commissioners signed a Proclamation proclaiming Wednesday, March 25, 1992, as Daffodil Day urging all residents to join with volunteers of the American Cancer Society to support this special occasion by purchasing and wearing a daffodil - the flower of hope.

Contract

The Board of County Commissioners signed a Contract between Missoula County and First Montana Title Company of Missoula, the lowest and best bidder for performance of tax deed title searches, for ownership and interest in real property, as per the terms set forth, with payment at \$70.00/parcel plus \$20.00/hour for "complex" searches, to be completed by June 12, 1992.

MARCH 16, 1992 (CONT.)Resolution No. 92-020

The Board of County Commissioners signed Resolution No. 92-020, a resolution opening fire season effective March 19, 1992; that no open burning shall be allowed without having obtained an official written permit from the recognized protection agency; and that the Director of Disaster and Emergency Services and the fire officials of the fire service agencies shall jointly determine when to declare fire season closed.

Resolution No. 92-021

The Board of County Commissioners signed Resolution No. 92-021, resolving that an election shall be held on May 19, 1992, for the purpose of determining whether the proposed Seeley Lake Sewer District shall be incorporated, and that the election shall be held under the provisions of Chapter 19 of Title 13, MCA.

Modification of Agreement

Chairman Evans signed a Modification of Agreement between Missoula County and Montana Department of Health and Environmental Sciences, modifying the Section III(1) of the Agreement between them concerning provision of services under the Maternal and Child Health Services Block Grant (DHES No. 320136, as amended) as follows:

"(1) In consideration of services rendered pursuant to this agreement, DHES agrees to pay the County a total of \$148,225" . . . as per the schedule set forth.

The Modification was forwarded to DHES in Helena.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and the Hubert E. and Laurel Dubb Living Trust for the purchase of Lots 1 through 21, Block 2, and Lots 1 through 15, Block 10 of Hillview Heights #6, as per the terms and special provisions set forth, for a total purchase price of \$100,800.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and James A. and Sheila M. Nelson for Lot 7, Block 3 of Country Club Addition #2, as per the terms and special provisions set forth, for a total purchase price of \$9,000.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

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

Site Inspection

Commissioner Evans accompanied County Surveyor, Horace Brown, for a site inspection on the request from Dave Trusty to vacate a portion of road located in Section 35, T. 12 N., R. 21 W.

* * * * *

MARCH 17, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was out of the office from March 17th through Friday, March 20th, due to the illness of a member of her family.

DAILY ADMINISTRATIVE MEETING

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

Interlocal Agreement

The Board of County Commissioners signed an Interlocal Agreement between Missoula County and the City of Missoula to cooperate in the extension of City Sewer Service to portions of the Lower Miller Creek area of Missoula County, to provide for the financing and administration, and transfer

MARCH 17, 1992 (CONT.)

of ownership of the Lower Miller Creek Sanitary Sewer Interceptor as identified in Exhibit A of the Agreement, as per the items set forth, with the total cost of the project estimated at \$1,098,000.00. The 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.

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MARCH 18, 1992

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

Audit List

Commissioners Evans and Dussault signed the Audit List dated 3/18/92, pages 4-32, with a grand total of \$123,767.20. 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:

Agreement to Sell and Purchase & Removal of Contingencies Forms

The Board of County Commissioners re-signed an Agreement to Sell and Purchase between Missoula County and Kimberly S. Novak-Mansch and Larry D. Mansch for the purchase of Lot 46 of Grantland #13, as per the terms and provisions set forth, for a total purchase price of \$25,000.00 (the Agreement was originally signed on February 5, 1992. The Commissioners also signed three (3) Removal of Contingencies forms, whereby the parties agree that the following contingencies have been met and are hereby removed: the corner pins have been located and the corner pin and boundaries are approved; it has been verified that the lot is not in the floodplain; and the "drainage" problem has been reviewed and should not prevent "normal" construction on this lot with the proper precautions. The documents were returned to Larry Mansch, Purchaser, for further handling.

Consent to Amendments Form

The Board of County Commissioners signed a form consenting to the adopting and recording of the following amendments (attached to the Consent form) to the bylaws of the Missoula Community Physicians Center: an amendment to the Missoula Community Physicians Bylaws dated May 2, 1978; an amendment to Declaration of Condominium; and an amendment to Unit Lease Purchase Contract. The Consent form was returned to Geoff Bayliss of Community Hospital.

Release and Settlement Agreement

The Board of County Commissioners signed a Release and Settlement Agreement between the Missoula County Airport Authority and G. Elmer Flynn, Mary A. Flynn, Frances McQuade a/k/a Francis McQuade, Clarence S. Sinclair Trust, and Patricia Sinclair to settle the Flynn family's lawsuit against Missoula County, whereby the parties agree to resolve their claims through compromise as follows: the owners are willing to sell certain property to the Airport for use as runway expansion and a runway clear zone for the sum of \$169,533.19 and certain rights to the remainder of their real property; the Airport has agreed to this settlement as per the mutual covenants set forth. The Agreement was returned to Attorney Robert Terrazas for further signatures and handling.

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

WEEKLY PUBLIC MEETING

The meeting was called to order by Chairman Barbara Evans at 1:35 p.m. Also present was Commissioner Ann Mary Dussault.

BID AWARD: TRAFFIC LINE PAINT (SURVEYOR)

Barbara Evans explained from information received from Ken Kailey, Traffic Supervisor of the Road Department, that bids were opened on Monday, March 16, 1992, at 10:00 a.m. with the following results:

MARCH 18, 1992 (CONT.)

Columbia Paint	Yellow @ \$5.23/gal	1500 gal. = \$ 7,845.00
	White @ \$5.14/gal	2400 gal. = \$12,336.00
		TOTAL = \$20,181.00

Morton	Yellow @ \$6.20/gal	1500 gal. = \$ 9,300.00
International	White @ \$5.96/gal	2400 gal. = \$14,304.00
		TOTAL = \$23,604.00

Dura Line 2000	Yellow @ \$10.33/gal	1500 gal. = \$15,495.00
	White @ \$ 8.90/gal	2400 gal. = \$21,360.00
		TOTAL = \$36,855.00

Sahberg Construction NO BID

Centerline NO BID

Vogel Industrial Airpark NO BID

Ken Kailey recommended the contract be awarded to Columbia Paint as the lowest and most responsive bidder. There is \$30,000 in the FY'92 budget for the purchase of traffic paint.

Ann Mary Dussault moved and Barbara Evans seconded the motion to award the bid to Columbia Paint for the traffic line paint at \$5.23/gallon for the yellow line paint and \$5.14/gallon for the white line paint for a total bid amount of \$20,181.00 as the lowest and most responsive bidder. The motion carried on a vote of 2-0.

DECISION ON: REQUEST TO VACATE PORTION OF ROAD LOCATED IN SECTION 35, T.12 N., R.21 W. (REQUESTED BY DAVE TRUSTY)

Horace Brown said he recommended the acceptance of the request by Dave Trusty to vacate the portion of road located in Section 35, T.12 N., R.21 W. as there is no use for the road and the vacation would add taxes to the rolls.

Barbara Evans said after viewing the land to be vacated, she agreed with Horace Brown's recommendation, as it is not possible to use it as a road and the County does not need it. The residents will be petitioning to vacate another section of the same road.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the request to vacate "Unnamed Road", located in NW 1/4 of SE 1/4, Section 35, T12N, R21W from North-South Mid-Section Line of Section 35, T12N, R21W to a line extending Northeasterly from the NE corner of Lot 10, Loloview Acres, P.M.M., Missoula County, Montana. The motion carried on a vote of 2-0.

HEARING: APPLICATION FOR TAX INCENTIVES (SUN MOUNTAIN SPORTS)

John DeVore, Administrative Officer, explained that Sun Mountain Sports has submitted an application for tax incentives under Resolution No. 91-101 for expansion of their existing facility located at 301 North First Street, Missoula, Montana. The application is based on improvements in excess of \$299,780.00 installed during 1991. The qualifying improvements consist largely of personal property. The previous employment base in Sun Mountain's last application was 340. This application represents that the employment base will expand to 355 by March of 1992. The application has been through all the appropriate review processes.

This application meets both the legal and policy test. Staff recommends approval of the application.

Barbara Evans opened the hearing to public comment.

C. E. Abramson, Real Estate Broker representing Sun Mountain Sports, stated that it had been estimated by Sun Mountain that by March of 1992 the company would have 355 employees. He said that on the pay period of the 11th of March, there were approximately 375 employees. He stated that the problems that concerned the Health Department had been negotiated and taken care of by Sun Mountain Sports.

He said there is much expansion going on at Sun Mountain; two new products are expected to be in production soon and Sun Mountain has offers out on some property. He said this shows that the tax incentive program is working for Sun Mountain. The tax savings are being budgeted to go

MARCH 18, 1992 (CONT.)

towards their expansion. He said a tax bill received from the State for State levies was outstanding simply because the State's procedure changed; the bill will be paid.

Ann Mary Dussault asked Mr. Abramson to describe what the qualifying improvements are in the application and if they are part of the new expansion. She also asked about Sun Mountain's dealings out of state.

C. E. Abramson said there are two kinds of improvements represented by the acquisition during 1991. The first is new products; sewing that had been contracted out to a firm in Spokane was moved to the operation here in Missoula. Also qualifying are improvements, upgrading and gaining local control of processes already at work for Sun Mountain. He said there is virtually no real estate involved.

He addressed the other concern relative to Sun Mountain's out of state dealings. He said that because of other companies testing the strength of Sun Mountain Sports patents on their golf bags, Rick Reimers, owner of Sun Mountain, who is originally from South Dakota, licensed the patent for his golf bags to a company in South Dakota two years ago. This company makes a low-end bag that isn't sold anywhere his bags are sold. He said that most of the components covered by the patents for the low-end bag in South Dakota are also made here in Missoula. He said Rick Reimers is actually making things under his own patent and selling them to this related company that uses his patents in South Dakota. There is nothing that was ever done in Missoula that is now being done somewhere else for Sun Mountain.

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 application from Sun Mountain Sports for Tax Incentives under Resolution No. 91-101. The motion carried on a vote of 2-0.

Resolution No. 92-022

The Board of County Commissioners signed Resolution No. 92-022, a resolution approving the application of Sun Mountain Sports for Tax Incentives under Resolution No. 91-101.

HEARING: (Certificate of Survey) FAMILY TRANSFER (BAUER) COS No. 4017

Marnie McClain, Deputy County Attorney, explained that Tim Wolfe of Territorial Engineers and Surveying has submitted a request for approval of a family transfer exemption on behalf of James M. and Norma H. Bauer. The parcel to be divided is COS 4017.

According to the records kept by the Missoula County Surveyor's office, Mr. and Mrs. Bauer have not previously divided property using exemptions to the Subdivision and Platting Act.

The subject parcel had previously been divided in 1991 when a portion of the property was condemned for use by the airport.

Barbara Evans opened the hearing to public comment.

Tim Wolfe said the Bauers wanted to give two acres to their son to build a shop for a small construction business. The building will store materials and trucks, etc.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the Family Transfer request from James M. and Norma H. Bauer dividing COS No. 4017, based on the fact that there does not appear to be any attempt to evade the Subdivision and Platting Act. The motion carried on a vote of 2-0.

HEARING: (Certificate of Survey) RELOCATION OF COMMON BOUNDARY (ROSSIGNOL) LOTS 1, 2, 3, 7 & 8; BLOCK 1, ALLOMONT ORCHARDS

Marnie McClain explained that Tim Wolfe of Territorial Engineering and Surveying has submitted a request for approval of a relocation of common boundaries and lot aggregation for Lots 1,2,3, and 7 and 8 Block 1 of Allomont Orchards.

According to the records kept by the Missoula County Surveyor's office, Mrs. Rossignol used the occasional sale exemption in 1981 and the gift exemption in 1987. According to Mr. Wolfe, Mrs.

MARCH 18, 1992 (CONT.)

Rossignol is considering going through formal subdivision review for Lot 5 in the future. Allomont Orchards was platted in 1925.

Barbara Evans opened the hearing to public comment.

Tim Wolfe said his client is complying with the Comprehensive Plan for the area, which calls for a higher density and the Rossignols wish to do four 1/4 acre lots. This is a test situation. Lolo Sewer and Water SID is not favorable to allowing new subdivisions to hook onto their facilities until they conduct more studies on the area. The Rossignols met with the Lolo Sewer and Water Board and they thought that hookups to four lots would be fine. He said they were not trying to evade the Subdivision Act; but because of the feelings of Lolo Sewer and Water Board to any subdivisions going in in this area, they wanted to do the four lots this way. He said there may be a major subdivision in there in the future. There is a master plan being drawn up and the four lots will fit right in with the rest of the plan.

A general discussion ensued relative to the common boundary the Rossignols wished to relocate.

Ann Mary Dussault asked if this boundary relocation was really a summary plat.

Tim Wolfe stated that it was already an existing subdivision; there are five lots and no lots are being created. Four 1/4 acre lots with a fifth larger lot are being created out of the original five.

Barbara Evans said that traditionally a boundary relocation is where an existing line is moved to some other place. She suggested to Mrs. Rossignol that she have Tim Wolfe submit this as a summary plat to go through the planning process. She said, in her opinion, this is clearly a subdivision.

Tim Wolfe said it is really an amended plat.

Michael Sehestedt, Deputy County Attorney, explained that there are five conveyable lots to start out with, and in the end, there will be five conveyable lots.

Tim Wolfe said a positive aspect for doing the lots this way so that the Lolo Sewer and Water Board would commit to hooking up the four lots to the utilities; they did have a problem however with a subdivision.

A general discussion ensued relative to abandoning an existing sixty foot easement.

Ann Mary Dussault asked about the process to do an amended plat.

Mike Sehestedt said that an area that has been previously platted, the plat can be vacated if an amended plat effects six or more lots or which creates additional lots within a previously platted area; this is subject to subdivision review. If an amended plat is done which doesn't create additional lots and does not effect six or more lots within the platted subdivision, it does not have to go through subdivision review. The other route, he said, to replat a platted area, is to simply to do a subdivision and as part of the process, request partial vacation of the original plat.

He said this falls into the category of an amended plat, but what they are seeking is to do an amended plat without subdivision review because it fits into the exception that it is less than six lots and it doesn't create any new lots; it simply rearranges the existing boundaries.

Ann Mary Dussault said the dilemma is that this is proposal is so significantly different than the original plat, that it seems to amend the plat from the total acreage to quarter acre lots. Clearly, to her, this needs to be reviewed. She said it looks like this request should be a summary plat submitted as part of a larger part of a master plan so that it can begin to be processed for sewer, water and roads. She asked, if this request is denied, how will it come back in?

Michael Sehestedt stated that the Rossignol's could come back in with a summary plat or sell off the existing five lots without any review.

Tim Wolfe said his clients are testing the market in this area. The zoning is high density and the sewer and water will have to be designed and submitted to the state Health Department; so all the reviews will take place. He said that they are trying not to submit a subdivision to the Lolo Sewer and Water Board. He said they were apprehensive about adding a subdivision to the system.

Ann Mary Dussault said it may be beneficial to bring this through a review process, so that everyone can get an idea of what is intended. This way, the Board can work with the Lolo Sewer and Water Board to discuss the issues and do some planning.

A discussion ensued relative to the procedure of submitting a summary plat.

Mrs. Rossignol expressed concerns about the cost of doing a subdivision. She said they didn't want the expense of doing a major subdivision for just four small lots.

Ann Mary Dussault said the problem with this request is that the Board looked at a summary plat the week before that was a part of an intended larger subdivision with the same intention to acquire the capital to do the rest of the project. She said Mrs. Rossignol is asking the Board not to have to go through the same process.

A general discussion ensued relative to what other developers had done in the past with similar situations to the Rossignol's request. It was concluded that other developers had gone through the subdivision process or had vacated the plat.

Barbara Evans said the only difference between this request and past requests with five lots is that the land had been previously platted and the end result is five lots; the same number of lots that they had started with. She said she wasn't sure that other developers would think approval for this request would be fair to them as they had to go through summary review for their proposals.

Michael Sehestedt said it comes down to whether or not the Board feels this request to relocate boundaries is evading the Subdivision Act. He explained that the summary plat process requires improvements (ie: sewer, water, road), review and hearing procedure with a time frame of about three months.

Ann Mary Dussault moved that the petition to utilize a boundary relocation for Allomont Orchards as described, be denied for the following reasons:

1. The proposed lots that will be created constitute a significant change in the density that was originally approved under the original plat.
2. It would appear that the utilization of the relocation of the common boundary is being used a method to avoid going through the appropriate review generally described as a summary plat.

The motion failed for lack of a second.

Barbara Evans asked Ann Mary Dussault to reconsider her motion for the reasons that they are not creating additional lots. The lots would be on the sewer system versus septic systems. She said she would prefer these lots to be put on the sewer than to have septic systems because the river is relatively close in this area. She said the Rossignol's must have a clear understanding that there cannot be a single other split on the property without going through subdivision review.

Ann Mary Dussault stated that she could not change her motion for the reason that she was not willing to approve it. She said the Rossignol's may have to wait for a third Commissioner to approve or deny the request.

Mike Sehestedt agreed with Ann Mary Dussault and stated that if a decision cannot be reached, rather than letting it sit as "no action", he recommended that the Board continue the hearing in one week when a third Commissioner is present.

Ann Mary Dussault moved and Barbara Evans seconded the motion to continue the hearing in one week or until the whole Board is available in order to reach a solution to the request for an occasional sale by the Rossignols. The motion carried on a vote of 2-0.

HEARING: (Certificate of Survey) USE OF OCCASIONAL SALE (BORTEL) TRACT 1A1B COS NO. 2074

Marnie McClain explained Tim Wolfe of Territorial Engineering has submitted a request for approval of an occasional sale on behalf of Darlene M. Bortel. The parcel to be divided is Tract 1-A-1-B of COS 2074, presently a one acre tract. Also considered, because the tracts are contiguous to one another, was the request of Duane P. Martin for an approval of an occasional sale for Tract 1A1A of COS 2074.

MARCH 18, 1992 (CONT.)

According to the records kept by the Missoula County Surveyor's office, Ms. Bortel and Mr. Martin have not previously divided property using exemptions to the Subdivision and Platting Act.

The subject parcels have previously been subdivided, beginning in 1977. At that time, eight parcels, 20 acres or larger in size, were created by COS 1369. In 1978, Tract 1 was divided into two parcels by use of the occasional sale exemption with a remainder as shown on COS 1569. Later in 1978, Tract 1-A was divided using the occasional sale with a remainder as shown on COS 1683. In 1979, Tract 1-A-2 was divided into five 1 acre lots.

By using of several maps, she showed what had taken place in the past to the parcels of land.

Barbara Evans opened the hearing to public comment.

Tim Wolfe explained that his clients, Bortel and Martin approached him together with their requests. Their lots are existing one acre lots. They wish to hook up to the Mormon Creek Meadows Water System; sewer will be on-sight sewer systems. This allows them to go to half acre parcels according to the Health Department. There is no zoning; but the Comp Plan calls for two dwelling units per acre or higher density.

Ann Mary Dussault stated that it is her position that the Board not only has the authority, but the responsibility to review the action of the individual and the history of the parcel. She said it is clear that a subdivision has been created by evasion of the Subdivision Act. She said she will not support the request.

Barbara Evans said that the Certificates of Survey issue is one of the toughest issues she has ever dealt with because the way she reads the law is that a property owner has the right to do one land split a year unless the Commissioners determine that the individual is trying to either evade or avoid the Subdivision law. She said it is pretty clear this land is becoming subdivided. The majority of land in Missoula county is being split by means of COS, with no review, no roads, and no amenities. She said it is an easier process to go through COS than the subdivision process. She said she would like to reverse this so that the subdivision process is easier to go through so that the amenities can be had for the different areas. She said she felt bad for the property owners who may have had this information represented to them when they bought the land that they had the legal right to split it again. She asked whether the two hearings would have to dealt with as two separate items?

Michael Sehestedt asked Tim Wolfe if he had anything different or additional to add for Duane P. Martin's request for an occasional sale?

Tim Wolfe said he didn't have anything to add. He said the only advantage to this situation is that both parcels could be hooked to a public water system; thus avoiding two additional wells in the area. This area does have a history of a water shortage.

Barbara Evans said they could still hook up to the water system with just the two lots.

Michael Sehestedt said that the two lots could be hooked up right now if the water system is willing to take just the two lots. The cost of the pipe, etc., instead of splitting between four lots, would be split between just the two lots.

Ann Mary Dussault moved and Barbara Evans seconded the motion to deny the request for an occasional sale from Darlene M. Bortel for Tract 1A1B COS 2074 based on the history of the land, which in the past has been subdivided by evasion of the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

Ann Mary Dussault moved and Barbara Evans seconded the motion to deny the request for an occasional sale from Duane P. Martin for Tract 1A1A COS 2074 based on the history of the land, which in the past has been subdivided by evasion of the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

The Board of County Commissioners had approval from Tim Wolfe not to hold a specific hearing for Duane P. Martin for Tract 1A1A COS 2074, as it was the same request for the parcel adjacent to Darlene M. Bortel's parcel, Tract 1A1B COS 2074.

There being no further business to come before the Board, the meeting was adjourned at 2:35 p.m.

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MARCH 19, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present in the forenoon. Commissioner Evans was out of the office all afternoon. In the forenoon, Commissioner Dussault attended an SED Planning Meeting and Commissioner Evans attended a meeting of the Museum Board. In the evening, Commissioner Dussault attended a meeting of the Air Pollution Control Board, and Commissioner Evans attended a meeting regarding the Wal Mart rezoning request. No Administrative Meeting was held, but the following items were signed during the day:

Budget Transfer

The Board of County Commissioners approved and signed the following Budget Transfer and adopted it as part of the FY'92 budget:

No. 92025, a request from the Sheriff's Department to transfer \$2,500.00 from the Coroner account to the Bike Patrol account to establish a Bike Patrol Program.

Transfer of Funds to Montana Rail Link

The Board of County Commissioners signed approval of a transfer of funds to Montana Rail Link from the Road Department in the amount of \$7,500.00 for the purchase of 4,000 feet of 5 inch hose to run from the hydrant at the County Road Shop to the Van Evans Crossing to allow the closure of the crossing and the removal of the cross arms, saving the County from \$3,000 to \$8,000 per fiscal year for the repairs that are now required. The Approval was returned to County Surveyor, Horace Brown.

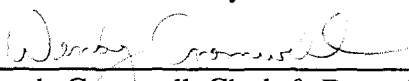
Letter of Confirmation

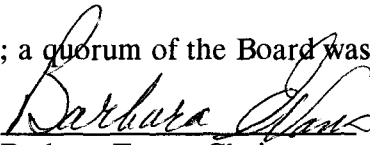
The Board of County Commissioners signed a letter to Mr. John Vugteveen of Stevensville, Montana as confirmation of the County's intent to purchase the items he has for sale: namely, the PT118 Communication Site, the PT6 Microwave System, and the Seeley Lake Communications Tower, with the items listed in the letter, for an amount not to exceed \$68,797.00 payable on or before July 31, 1992. The Letter was returned to Bob Schieder, Facilities Manager in General Services, for further handling.

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MARCH 20, 1992

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


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

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MARCH 23, 1992

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

Indemnity Bonds

Chairman Commissioner Evans examined, approved and ordered filed the following Indemnity Bonds:

- 1) Naming Michele Nokleby as principal for warrant #775, dated 11/11/91 on the Potomac School District #11 Fund in the amount of \$274.10 now unable to be found; and
- 2) Naming Dave Huerta as principal for warrant #010263, dated 3-20-92, on the Hellgate Elementary School District #4 fund in the amount of \$762.24 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

MARCH 23, 1992 (CONT.)Letter regarding Claim for Damages

The Board of County Commissioners signed a letter to Mr. Edward L. Parsons in response to a Claim for damages as the result of a County patrol car hitting a horse belonging to Mr. Parsons on 9/30/91; the County is offering to conclude this claim with a payment of \$1,000 in exchange for a full release in favor of Missoula County.

Mr. Parsons was advised to contact Hal Luttschwager, Risk Manager, with his answer.

Fire Hose Agreement

The Board of County Commissioners signed a Fire Hose Agreement between Missoula County and Montana Rail Link Inc., whereby the County agrees to provide \$7,500 to Montana Rail Link toward the purchase of 4,000 feet of 5-inch hose with connections, as per the terms set forth, to mitigate the closing of the Van Evans railroad crossing.

Other items included:

The request from Missoula Youth Homes for the balance of last year's allocation was discussed; the Commissioners voted to grant \$8,000.00 for the shortage.

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

* * * * *

MARCH 24, 1992

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:

Interlocal Agreement

The Board of County Commissioners signed an Interlocal Agreement between Missoula County and the Department of Justice and the Department of Corrections and Human Services (State Agencies) for the purpose of providing for the 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 State Agencies, at the rate of \$33 for each day of confinement for each inmate, for the period from October 1, 1991, until June 30, 1993, as per the mutual covenants contained in the Agreement. One copy of the Agreement was returned to the State Department of Justice in Helena.

Modification of Agreement

Chairman Evans 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 development of community-based consortia to help individuals with HIV infection and their families to get needed services (DHES No. 320220); amending Section IA(24) and Section III as shown in the Modification. The agreement was forwarded to DHES in Helena.

Replacement Bond

Chairman Evans signed Bond #53 in the amount of \$2,685,000.00 for the County of Missoula, Hospital Revenue Refunding & Improvement Bond, Series 1978 (Community Hospital Project) to replace Missoula County Hospital, 1978 RV IMP, Bearer Bonds, due 6/01/07 @ 7.125%, #6D5795BC6 for a total of \$2,685,000.00 at \$5,000.00 each. The Bond was returned to Susan K. O'Neil at First Interstate Bank of Missoula.

MARCH 24, 1992 (CONT.)Lease Agreement

The Board of County Commissioners signed a Lease Agreement between Missoula County and KEYS, an organization located in Missoula, for a parcel of land located in the Northwest 1/4, Section 31, T. 13 N., R. 19 W. PMM, and more particularly described as Parcel 1 on the exhibit attached to the Lease Agreement, for a term of 10 years, for the sum of \$1.00, and is granted for the purpose of operation and maintaining a "Safety Town Park" for training of children in various traffic and community safety issues, as per the terms set forth. The Lease was forwarded to Duane Pettersen of KEYS for signature and return.

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'92 budget:

No. 92026, a request to transfer \$16,250.00 from the accounts listed on the attachment to the transfer (on file in the Budget Office) to the Patrol Salaries account to fund for the addition of one FTE for half the budget year.

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

* * * * *

March 25, 1992

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Stevens was out of the office until noon as she was in Helena to attend a funeral. In the forenoon, the Commissioners attended a meeting regarding funding for the Partnership for Access program held at the Health Department.

Audit List

Commissioners Evans and Dussault signed the Audit List dated 3/24/92, pages 4-31, with a grand total of \$124,565.46. The Audit List was returned to the Accounting Department.

Payroll Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for Pay Period #5 (2/16/92 through 2/29/92) with a total Missoula County Payroll of \$394,073.03. The Transmittal Sheet was returned to the Auditor's Office.

Resolution No. 92-023

The Board of County Commissioners signed Resolution No. 92-023, a resolution to conditionally rezone a portion of Tract C, COS #3036 (Krumvieda's property) located in the S 1/2, SW 1/4, NE 1/4 of Section 13, T. 13 N., R. 19 W., from "C-A1" (Open and Resource Lands District) to "C-RR1" (Residential District), subject to the two conditions listed on the Resolution.

WEEKLY PUBLIC MEETING

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

PROCLAMATION: Women in Military Service

WHEREAS, women have served in the United States Military from the earliest days of our republic, as well as in the Continental Army of the American Revolution, as nurses, spies and soldiers on the front lines; and

WHEREAS, women served in the War of 1812; and

WHEREAS, women played increasingly important roles in the Civil War as exemplified by Dr. Mary Walker, an Army surgeon who was awarded the Congressional Medal of Honor, and Dorteia Dix and Clara Barton formed a nursing corps; and

MARCH 25, 1992 (CONT.)

- WHEREAS,** women nurses successfully served under a civilian contract to meet emergency needs during the Spanish-American War; and
- WHEREAS,** approximately 35,000 women served during World War One; 296 American nurses gave their lives, 100 of whom were buried in France; and
- WHEREAS,** 400,000 women served in World War Two; more than 80 were imprisoned in enemy camps and over 200 gave their lives; and
- WHEREAS,** women have been an essential part of the Armed Forces of our country, both in peacetime and in war; and
- WHEREAS,** 400,000 serve in the active military services, National Guard, and Reserves of our country; and
- WHEREAS,** there are approximately 1.2 million living women veterans, 5,000 of whom reside in the State of Montana; and
- WHEREAS,** 34,000 women served in Desert Storm, 15 gave their lives; and
- WHEREAS,** a special tribute of recognition is offered to all Montana's military women who served during the Persian Gulf War,

NOW, THEREFORE WE THE BOARD OF COUNTY COMMISSIONERS DO HEREBY PROCLAIM MARCH 29, 1992 AS WOMEN IN MILITARY SERVICE FOR AMERICA DAY

and encourage all Montanans to recognize women who have served in the Armed Forces of the United States of America.

Janet Stevens moved and Ann Mary Dussault moved to sign the Proclamation proclaiming March 29th "Women in Military Service for America Day." The motion carried on a vote of 3-0.

Connie Cloud, representing the group of women, said the group is trying to build a memorial in Washington D.C. to commemorate all the women who have served in the military.

PRESENTATION by KEYS Safety Town

Duane Peterson, past president of KEYS (Keep Every Youngster Safe), explained that this non-profit organization had been started two years ago with the goal of obtaining a piece of land consisting of 2-3 acres in size to put a Safety Town on and to put out a manual on safety for children. He said the manual had been completed and presented it to the Commissioners. He explained the purpose of the manual and said the manual will be distributed to School District No. 1, to the law enforcement agencies and child care centers, etc. He said there are hundreds of preventable injuries that can be reduced if children are educated about the dangers. He thanked the Commissioners for their support and for the land.

BID AWARD: Construction Bids - RSID No. 443 (construction of Sewer Main in Carline, Butte Addition)

Barbara Evans explained from information received from Jesse Sattley, Administrative Assistant, that three bids were received for RSID #443 - Carline, Butte Addition Sewer Extension with the following results:

Western Materials	\$43,896.00
L.S. Jensen & Sons	\$34,509.50
P. O'Connell Construction Co.	\$30,887.00

The engineering estimate for construction was \$33,156.25, therefore, staff recommends award to P. O'Connell Construction Company being the lowest and best bid at \$30,887.00.

Ann Mary Dussault moved and Janet Stevens seconded the motion to award the bid for RSID No. 443 for the construction of the sewer main in Carline, Butte Addition, in the amount of \$30,887.00 to P. O'Connell Construction Company as the lowest and most responsive bidder. The motion carried on a vote of 3-0.

MARCH 25, 1992 (CONT.)BID AWARD: Bond Bids - RSID No 443

Barbara Evans explained from information received from Jesse Sattley, Administrative Assistant, that two bids were received for the \$48,000.00 bond sale for RSID #443 - Carline, Butte Addition Sewer Extension, with the following results:

Glenn Rangitsch	6.425%
Harry Zitto	7.65 %

Staff recommends award to Glenn Rangitsch at 6.425%.

Janet Stevens moved and Ann Mary Dussault seconded the motion to award the bond sale bids for RSID No. 443 in the amount of \$48,000.00 to Glenn Rangitsch for 6.425% as the lowest and most responsive bidder. The motion carried on a vote of 3-0.

CONTINUATION OF HEARING & DECISION ON (COS Review): Relocation of Common Boundary (Rossignol)

Marnie McClain, Deputy County Attorney, explained that this is a hearing continued from last week. She said Tim Wolfe of Territorial Engineering and Surveying has submitted a request for approval of a relocation of common boundaries and lot aggregation for Lots 1,2,3, and 7 and 8 Block 1 of Allomont Orchards.

According to the records kept by the Missoula County Surveyor's office, Mrs. Rossignol used the occasional sale exemption in 1981 and the gift exemption in 1987. According to Mr. Wolfe, Mrs. Rossignol is considering going through formal subdivision review for Lot 5 in the future. Allomont Orchards was platted in 1925.

Barbara Evans opened the hearing to public comment.

Tim Wolfe, Territorial Engineering and Surveying, explained that this request is an amended plat, not a certificate of survey. He said the parcel is starting this process with five lots and finishing with the same number of lots. The four smaller lots will be used to gain capital and test the market. If the four lots are successful, then the remaining lot will be developed into a major subdivision. He explained that three of the five lots are 1/4 acre to 1/2 acre lots presently. The Rossignols would like to make four of the lots 1/4 acre parcels and extend the water and sewer main to the four new lots; as opposed to doing one acre lots with individual water and septic systems. He said they have dealt with the Lolo Water and Sewer Board who indicated verbal approval of the hookups to sewer and water for the four lots and would consider additional lots.

Janet Stevens asked why the proposal wasn't coming through the Office of Community Development as a summary plat?

Marnie McClain explained that the developers are proposing to relocate and rearrange five or fewer lots. That is an exemption from the subdivision and review process. It will be filed in the form of an amended plat.

Dick Rossignol explained that he and his mother, Mrs. Rossignol, along with Barb Martens, Phillip Maechling and John Mangiameli from the Office of Community Development, met and discussed a long range plan on the whole piece of property. He said the staff was very positive because of the fact that the properties would be hooked to both sewer and water. They want to shift the smaller properties that are now located at the bottom of the property, so that they are more accessible to the utilities. He said he is very pro-planning and would like to see this property develop in a sensible way.

He said his mother, because of her age, is not interested in waiting on the process of summary plat for the four lots. She would like to do something with the parcel whether or not this proposal is approved. He asked the Board to work with them on the four lots if, of course, subdivision laws aren't being evaded. He said the final four lots will connect into the larger fifth piece with a well planned and reviewed subdivision, if feasible. He said the end result would be a well-planned piece of property.

A discussion ensued relative to the boundaries and Rossignol ownership of the land in the surrounding area.

MARCH 25, 1992 (CONT.)

Ann Mary Dussault said that her concern was that the configuration of the proposed five lots is significantly different from the original five lots. She said the proposal is the beginning of a fairly intensive development which will include issues relative to water, sewer and roads. She felt this proposal would be more appropriate to go through the subdivision review process in order to review all the issues. Also, people in the area have the right to have the opportunity to comment because this is clearly the beginning of a very dense subdivision.

A discussion ensued relative to the different processes the Rossignols needed to go through for their proposal.

Barbara Evans said that she supported the proposal because it didn't make any additional lots and she felt it better protected the environment to allow them to develop it this way and go on sewer, than to have Mrs. Rossignol sell the one acre pieces and use separate septic systems.

Dick Rossignol said he had talked with the Lolo Water and Sewer Board and they had encouraged him to hook onto the sewer because of the capacity of the sewer in the area. He said he felt that it wouldn't be worth the economics to go through the subdivision process for four small lots. He said neither he or his mother is prepared or interested in doing a large scale subdivision this year. They want to see how the four lots will do first.

Tim Wolfe said that Mrs. Rossignol can sell any of the lots and the purchasers can come in with any kind of proposal.

Janet Stevens said if that occurred, it would be very hard for the proposal to be approved by the Board. She said it is clearly a subdivision.

Ann Mary Dussault moved and Janet Stevens seconded the motion to deny the request for approval of boundary relocation for Lots 1, 2, 3, 7 & 8 of Block 1 of Allomont Orchards, made by Norma Rossignol. The motion carried on a vote of 2-1 with Barbara Evans voting against the motion.

Janet Stevens said her second to the motion was made on the basis that the land was subdivided in 1925 and the residents must be given the chance to use the comment process. Also, this is part of a larger proposal and needs to go through the review process.

HEARING: (COS Review) Use of Occasional Sale (Whalen) COS 3879

There being no representatives for Mr. Whalen present, the hearing was postponed for one week.

HEARING: (COS Review) Family Transfer (Benson) COS No. 2076 Tract 1

Marnie McClain, Deputy County Attorney, explained that Tim Wolfe of Territorial Engineering and Surveying has submitted an affidavit from Milo Benson for a family transfer exemption for COS #2076, Tract 1. Mr. Benson wishes to transfer a 5 acre parcel to his adult daughter. The parent parcel is a 20.55 acre parcel.

According to the affidavit, COS #2076 was filed in 1979. At that time, a 71.25 acre parcel was divided into three parcels, each 20.55 acres in size with a 9.60 acre remainder. The 71.25 acre parcel was created in 1977 by Missoula Cartage.

According to the records kept by the Missoula County Surveyor's office, Mr. Benson has not previously used any exemptions to the Montana Subdivision and Platting Act, other than to file COS 2076, which created three 20.55 acre parcels.

Barbara Evans opened the hearing to public comment.

Tim Wolfe said his client, Mr. Benson, wanted to give this 5 acre parcel to his daughter as a wedding gift. They will build a home in the middle of the 5 acre parcel.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the request by Milo Benson a for family transfer exemption for COS No. 2076 Tract 1, based on the fact that it does not appear to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

MARCH 25, 1992 (CONT.)

There being no further business to come before the Board, the meeting recessed at 2:20 p.m.

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MARCH 26, 1992

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, the Commissioners participated in a Water Quality Planning Meeting held at the Health Department.

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond naming Jill Templeton as principal for warrant #53627, dated March 26, 1992, on the MCHS Payroll Fund, in the amount of \$310.56, now unable to be found.

Plat

The Board of County Commissioners signed the Plat for Schwenk Addition No. 2, a subdivision of Missoula County, located in the NW 1/4 of Section 35, T. 13 N., R. 20 W., a total of 6.23 acres, with the owners/developers being Jack & Marjorie Schwenk; cash in lieu of park in the amount of \$5,127.78 was received by the Missoula County Treasurer.

Resolution No. 92-024

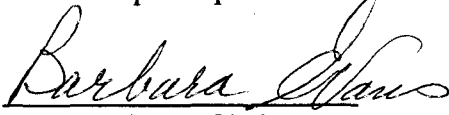
The Board of County Commissioners signed Resolution No.92-024, a resolution to vacate the Unnamed Road from the North-South Mid-Section Line of Section 35, T. 12 N., R. 21 W. to a line extending Northeasterly from the NE corner of Lot 10, Loloview Acres, PMM.

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MARCH 27, 1992

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, Commissioner Dussault participated in the "Expanding Your Horizons" career conference held at Sentinel High School; and Commissioner Evans participated in the Ribbon Cutting Ceremonies at University Motors.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

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MARCH 30, 1992

The Board of County Commissioners met in regular session in the forenoon; a quorum of the Board was present. Commissioner Evans was on vacation March 30th & 31st, and Commissioner Stevens was out of the office all afternoon.

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 #6 (3/1/92 - 3/14/92) with a total Missoula County Payroll of \$390,740.07. The Transmittal Sheet was returned to the Auditor's Office.

Advisory Services Contract

Acting Chair Dussault signed acceptance on behalf of Missoula County of D. A. Davidson & Co.'s proposed Advisory Service Contract for the Regional Detention Center bonds to serve as financial advisor for this project to assist with the issuance and public sale of bonds, as per the items set forth, for a payment of \$22,500 payable at the time the County receives the bond proceeds; and if the bonds are not sold, there will be no obligation on the part of the County. \$22,500.00. The Contract was returned to John DeVore, Administrative Officer, for further handling.

MARCH 31, 1992 (CONT.)

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

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MARCH 31, 1992

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:

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, all of which become effective July 1, 1992, as per the items set forth on the individual exhibits:

- 1) Exhibit 7a.1 - Medical Benefits (out-of-pocket payment limits);
- 2) Exhibit 7a.2 - Medical Benefits (accidental injuries);
- 3) Exhibit 7a.3 - Medical Benefits (chemical dependency, mental and nervous conditions);
- 4) Exhibit 7a.4 - Medical Benefits (maternity care)
- 5) Exhibit 7a.5 - Medical Benefits (additional covered expenses - acupuncture services);
- 6) Exhibit 7a.6 - Medical Benefits (additional covered services - well-child care);
- 7) Exhibit 7a.7 - Dental Benefits (Type A - preventive expenses - pit and fissure sealants);
- 8) Exhibit 7a.8 - Dental Benefits (Type B dental expenses - 80% for Type B dental expenses); and
- 9) Exhibit 7a.9 - Vision Care Benefits (vision care benefits section deleted and replace with covered vision expenses attached to the exhibit).

Other items included:

The Commissioners approved County Surveyor Horace Brown's letter (S92-082) authorizing the Road Department to purchase the equipment listed at the Ritchie Bros. auction on April 7, 1992, in Missoula.

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

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APRIL 1, 1992

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.

Audit List

Commissioners Stevens and Dussault signed the Audit List dated 3/30/92, pages 4-32, with a grand total of \$115,102.96. 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 Transmittal Sheet

The Board of County Commissioners signed the Transmittal Sheet for pay period #4 (2/2/92 - 2/15/92) with a total Missoula County payroll of \$390,992.43. The Transmittal Sheet was returned to the Auditor's Office.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Jeanne M. McNulty for Lot #2 of Grantland #12, as per the terms and special provisions set forth, for a total purchase price of \$16,000.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Resolution No. 92-025

The Board of County Commissioners signed Resolution No. 92-025, a Budget Amendment for FY'92 for the Health Department, including the following expenditures and revenue, and adopting it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>From</u>	<u>Budget</u>	<u>To</u>
2270-613-445600-111 Permanent Salaries	\$171,211		\$183,739
-141 Fringe Benefits	40,611		43,581
-359 Private Mileage	4,000		4,607
-367 Tuition, Reg. Fees	1,000		2,500
-357 Meals, Lodging, Inc.	1,000		3,000
-945 Capital, Office Equip.	0		1,500
	\$217,822		\$238,927

<u>Description of Revenue</u>		<u>Revenue</u>
2270-613-331409 MCH Block Grant	\$ 65,308	\$ 86,413

Additional funds received per Modification 320136-02 and 320136-03 from the DHES.

Resolution No. 92-026

The Board of County Commissioners signed Resolution No. 92-026, a resolution of intent to Establish the Greenough-Potomac Volunteer Fire Department and QRU Fire Service Area, as per the boundaries designated on the map attached to the resolution, and setting the hearing date for Wednesday, May 13, 1992, at 1:30 p.m.

Other items included:

- 1) the Commissioners approved a 24-foot width right-of-way along North Avenue at Lolo View Manor so that the total right-of-way is 54 feet as per the recommendation of Horace Brown, County Surveyor; and
- 2) the Commissioners sent a letter to Larry Handegard, State Director of APHIS Animal Damage Control, authorizing Cenex, Ltd. of Missoula to be the Missoula County designated dealer for supplying U.S. Fish and Wildlife Service rodent control materials.

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

APRIL 1, 1992 (CONT.)WEEKLY PUBLIC MEETING

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

CONSIDERATION OF: Linda Vista Seventh Supplement - Phase I (Final Plat)

John Mangiameli, Office of Community Development, explained that Linda Vista Seventh Supplement, Phase I is located in the SW 1/4 of Section 12, Township 12 North, Range 20 West, between Upper and Lower Miller Creek Roads, at the end of Linda Vista Boulevard. The entire Seventh Supplement is approved for 121 single family lots on 70 acres. Linda Vista Seventh Supplement, Phase I consists of four single family lots on 2.07 acres.

The OCD staff recommends that the final plat for Linda Vista Seventh Supplement, Phase I be approved subject to the following conditions:

1. Sanitary restrictions be lifted by State and local health authorities.
2. The developer shall include the following statements on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a RSID and can be used in lieu of signature on a RSID petition of the improvement of Linda Vista Boulevard and Upper and Lower Miller Creek Road and for the design and construction of a drainage system for the area affected by this subdivision and for construction of or extension of municipal or community sewer."

3. Grading, drainage, erosion control, street and sidewalk plans are subject to the approval of the County Surveyor.
4. Linda Vista Boulevard shall be constructed to the standards in Article 3-2 (8) (C), "Local Street 51-200 Dwelling Units." The road right-of-way shall be 60 feet wide, the road pavement width -- face-to-face of curb -- shall be 40 feet wide. Linda Vista Boulevard shall be constructed, in its entirety, to standards approved by the County Surveyor, within nine months of the filing of Linda Vista Seventh Supplement, Phase I, or no later than the end of 1992, and that each section of road will be paved as the subdivision phases are completed (as weather allows). Should dust abatement be required as determined by the County Surveyor, the developer will provide it.

If the area of the proposed subdivision is in the Air Stagnation Zone, the Board will require dust abatement to be mandatory.

Gilbert Larson of Druyvestein, Johnson and Anderson appeared to answer questions from the Board.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the final plat for Linda Vista Seventh Supplement - Phase I subject to the following conditions:

1. Sanitary restrictions be lifted by State and local health authorities.
2. The developer shall include the following statements on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a RSID and can be used in lieu of signature on a RSID petition for the improvement of Linda Vista Boulevard and Upper and Lower Miller Creek Road and for the design and construction of a drainage system for the area affected by this subdivision and for construction of or extension of municipal or community sewer."

3. Grading, drainage, erosion control, street and sidewalk plans are subject to the approval of the County Surveyor.
4. Linda Vista Boulevard shall be constructed to the standards in Article 3-2 (8) (C), "Local Street 51-200 Dwelling Units." The road right-of-way shall be 60 feet wide, the road pavement width -- face-to-face of curb -- shall be 40 feet wide. Linda Vista Boulevard shall be constructed, in its entirety, to standards approved by the County Surveyor, within nine months of the filing of Linda Vista Seventh Supplement, Phase I, or no later than the end of 1992, and that each section of road will be paved as

APRIL 1, 1992 (CONT.)

the subdivision phases are completed (as weather allows). Should dust abatement be required as determined by the County Surveyor, the developer will provide it.

If the area of the proposed subdivision is in the Air Stagnation Zone, the Board will require dust abatement to be mandatory.

The motion carried on a vote of 2-0.

The Board adjourned as the Board of County Commissioners and reconvened as the Planning and Zoning Commission. Present were Commissioners Janet Stevens and Ann Mary Dussault. Also present were Board members Horace Brown and Wendy Cromwell.

HEARING: Lot Split Request - Zoning District #4 (Cimino)

Zoe Mohesky, Office of Community Development, explained that Dr. William Cimino is requesting approval to divide a 13.5 acre parent parcel into two parcels, 4.8 acres and 8.7 acres. The property is described as a parcel of land lying north of Pattee Canyon Road located in the SE 1/4 of the NE 1/4, Section 3, T.12N., R.19W., P.M.M. This property is located in Zoning District #4 which required review of all lot divisions by the Planning Board and Missoula Planning and Zoning Commission with final approval by the Board of County Commissioners. This property is physically already divided following the creation of COS #2620, a parcel which was then sold to the Baumgartners. In April of 1991, the Board of County Commissioners approved the use of an occasional sale and boundary relocation for this particular lot division. Prior to the Certificate of Survey being approved, the lot split must first be reviewed under the Z.D. #4 regulations.

This land division complies with the minimum lot size of three acres and minimum lot width of 200 feet of the zoning district. Improvements on these lots, including home construction, must be reviewed under the Z.D. #4 regulations. At that time, the improvements will be evaluated for conflicts with the natural physiography. A division of land does not affect the natural physiography.

On March 17, 1992, the Missoula Consolidated Planning Board recommended approval of the request.

The hearing was opened for public testimony.

Nick Kaufman, Sorenson & Company, representing Dr. Cimino, was present to answer questions from the Board.

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

Janet Stevens moved and Wendy Cromwell seconded the motion to recommend approval for the request of Dr. William Cimino to divide the 13.5 acres of property described as a parcel of land lying north of Pattee Canyon Road located in the SE 1/4 of the NE 1/4, Section 3, T.12N., R.19W., P.M.M., into two parcels, 4.8 acres and 8.6 acres. The motion carried on a vote of 4-0.

The Planning and Zoning Commission adjourned. Acting Chair Dussault, reconvened the meeting as the Board of County Commissioners.

Janet Stevens moved and Ann Mary Dussault seconded the motion to accept the recommendation of the Planning and Zoning Commission for approval of the request made by Dr. William Cimino to divide 13.5 acres of property described as a parcel of land lying north of Pattee Canyon Road located in the SE 1/4 of the NE 1/4, Section 3, T.12N., R.19W., P.M.M., into two parcels, 4.8 acres and 8.6 acres. The motion carried on a vote of 2-0.

HEARING: Minster Meadows (Preliminary Plat)

John Mangiameli, Office of Community Development, explained that Minster Meadows is located north of 3rd Street and east of Stone Street. Gilbert Larson of Druyvestein, Johnson & Anderson, represented Floyd and Ann Mae Cheff. The Cheffs propose 13 single family lots on 10.2 acres. 2.4 acres of this property is proposed to be dedicated to the County as Open Space and is located within the 100 year floodplain. The remainder of the property lies within the 500 year floodplain.

The property proposed for subdivision currently has a mobile home and a stick built residence on site. The structures appear to be in use. A portion of this property is used as a garden and for other typical residential yard uses. The remainder of the property is cultivated or contains stands of cottonwood or spruce trees.

APRIL 1, 1992 (CONT.)

The proposed development is not in compliance with the Comp. Plan which designates the property for parks and open space.

Questions regarding septic system approval and flooding remain.

In the Findings of Fact section in the staff report, he quoted from Doug Kikkert under the Water and Sewer Services section:

"Preliminary plat shows a common drainfield area. This area has not been tested for groundwater. Testing that has been done in the area has not been satisfactory for large drainfields either. I submit a copy of groundwater testing done adjacent to the proposed drainfield. Only one of five met our minimum 4' separation. This site is surrounded by failures at less than 4 feet."

"My opinion is that there is no suitable site for individual septic on your subdivision."

Subsequent comments from Doug Kikkert state, "Review of past groundwater monitoring shows there is more area that can be tested for a minimum 4' separation to secure septic approval."

"A contingency for the developer to "meet sanitation requirements in the Subdivision Act" will be an adequate comment from us."

If the State Department of Environmental Health finds that the property contained within this subdivision proposal cannot adequately handle the effluent of one or more houses (as is reflected in the first set of comments by Doug), then this subdivision will not be permitted. State law supersedes preliminary plat approval. There is evidence of ground water pollution, quite possibly high nitrate levels in well water samples taken in the Orchard Homes area. The proposed development sewer waste treatment system could have an adverse affect on the quality of well water, both on site and adjacent properties.

Under the Parkland section he stated that the developer proposes to set aside .9 acres of common area and will be improved as a playground. The common area is also to double as the community drainfield. Additionally, the developer intends to dedicate as open space a 2.4 acre tract of land that is within the 100 year floodplain, and does contain a branch of the Clark Fork River, and associated floodway and bottom land. The plat does not show interior access to the Common Area or the Open Space, thus rendering both, if not unusable, under-usable to even the residents of this subdivision. To rectify this problem, staff recommends one of two alternatives:

- A. Switch the Common Area and Lots 8 and 9. This provides interior access to both the Common Area and the Open Space while retaining the same number of lots. Placing the common area at this location would allow the opportunity to connect with a future development that may be proposed on the adjacent property. This option would require that the developer pave Stone Street to the subdivision's furthest access point.
- B. Extend the Cul-de-sac so that it is adjacent to the dike and so that a walkway can be provided to access the top of the dike. Interior access to the Common Area would be accomplished by a walkway along the top of the dike. This alternative would not eliminate lots and would keep the plat substantially unchanged.

The developer will most likely propose a 20 foot pedestrian access easement to the common area between lots 10 and 11. The staff believes that either of the above two alternatives would better serve the residents of this subdivision and the public.

The staff recommends that the 2.4 acres of Open Space be dedicated to the County. This land should be maintained in a natural state. The area south of the Clark Fork River would potentially need periodic maintenance. The developer should remove any debris found in the area to be dedicated as Open Space.

Under Criterion #6, the Office of Community Development amended the second paragraph, last sentence in the paragraph to read, "However, if it is absolutely necessary to remove any of these trees, the developer should replant the same number of trees that were removed." Also, under the same section, the fifth paragraph, he deleted the last sentence, "Owners of lots 1,2,3,4,5, and 6 will be responsible for maintaining this ditch."

APRIL 1, 1992 (CONT.)

The Missoula Consolidated Planning Board recommended denial based on the finds of fact in the staff report and based on unanswered questions regarding the septic system and flooding.

The Missoula Consolidated Planning Board recommended that Minster Meadows Preliminary Plat be denied. However, if the Board of County Commissioners chooses to vote approval, staff recommends that the proposed subdivision be approved subject to the conditions as follows:

1. Sanitary restrictions be lifted by State and Local health authorities.
2. Final road and drainage plans shall be reviewed and approved by the County Surveyor's office.
3. Driveway approaches shall be paved for at least 20 feet back from the road at the time of construction.
4. All appropriate easements shall be shown on the face of the plat.
5. The developers shall remove all human-caused debris, exclusive of concrete or other similar items that would place an undue cost burden on the developer.
6. The developer shall be required to amend the plat to reflect either alternative "A" or alternative "B" contained in the Parkland section of the staff report. If the plat reflects alternative "A", the developer shall be required to pave Stone Street to the subdivision's furthest access point.
7. All utilities must be installed underground and utility easements must be shown on the Plat.
8. Approach permit shall be applied for and granted prior to home construction. Driveways will be paved for distance of 20 feet back from Stone Street.
9. The covenants shall include 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 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, 721-5700 ext. 3484. Where feasible, a copy of "Living with Wildlife" should be given to lot purchasers.
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 developer shall file Property-Owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State.
12. The boundary of the 100 year Floodplain shall be shown on the face of the plat.

Gilbert Larson of Druyvestein, Johnson & Anderson, representing the developers, requested the Commissioners delay the decision for one week to allow adequate time to resolve a question about flooding that came up at the Planning Board Meeting. There is conflicting information relative to flooding of the property. He said that comments from the Planning Board indicate that flooding was the key issue. The information prior to this meeting led the developers to believe that there would be no problem with ground water or with constructing the sewer system. There are two sites that have been approved for a drain field where the ground water monitoring was acceptable. He said a memo from Doug Kikkert says that he feels there would be an adequate area there, but more testing will need to be done this spring.

He commented on the concerns of the residents, the first being mobile homes being allowed into the development. The covenants forbid mobile homes being brought into the development. There will be no basements. Dust will not be a problem as half of Stone Street and all of Anna Mae Court will be paved; this will, in the end, help alleviate the dust problems in the area.

He said the dike located in the area was built in 1948 and protects the area from a 100 year flood. The sewage system that is proposed is compatible to the S.T.E.P. system; it is a mound type system that would require additional materials to be brought in and brought up to an elevation that would provide

APRIL 1, 1992 (CONT.)

for the safe treatment of the water during all conditions. He said their preliminary information leads them to believe that there will be an area that is acceptable for sewage treatment. If it is found that a sewage system cannot be put into the area, then that would be the end to the project.

He stated the developers were agreeable to donating land for parks and open space to be contiguous with County land. Condition No. 6 requires the developer to amend the plat to reflect alternative "A" or alternative "B" contained in the Parkland section of the staff report. He proposed instead that pedestrian access to the common area and open space be provided through a permanent 20-foot walkway easement.

The hearing was opened to public comment.

Dean Turnquist, a resident of the area, commented from a report from the University on the aquifer in the Missoula valley, relative to the water table and how, in high water years, the area in question experiences flooding. This poses problems for polluting the water; nitrates from sewage systems seep into the aquifer when the water rises. He made available to the Commissioners a picture of the flooding that was taken in 1981 of the area. This picture was taken about 70 feet from the property. He stated that the dike that was built in 1948 was built in order to channel the water. The water still can come under the dike, it does not stop the water; it can still flood. He expressed concern about the access to the park and open space through this subdivision as it would create an atmosphere like Buckhouse Bridge. He was afraid there would be people parking everywhere, with garbage, etc. being thrown all over. He felt Stone Street should be widened and paved completely by the developer.

A general discussion ensued relative to the paving of Stone Street, a dead-end road. It was concluded that the developers shouldn't be responsible for paving all of Stone Street; only the portion of the Street that intersects with the subdivision.

Donald Hinton, resident of the area, voiced concerns about the aquifer and problems that could occur with the mound septic system. He stated that his wife, Virginia Hinton, had telephoned both Madison, Wisconsin and Oregon; both of which have conducted studies on the mound septic systems. They indicated problems with the mound system that include electrical problems, mechanical problems and clogging up. When these problems occur, the water has no place to go. Effluent will begin leaking from the edge of the mound. If any of the problems arise, it could cause mound failure and saturate the surface. He wanted to know who would monitor the system, and who would pay for the monitoring. He urged that further studies be conducted relative to this problem.

Virginia Hinton stated she had talked with Ravalli County officials relative to the mound septic tanks and they indicated that they are having a hard time getting permits for this type of septic system because of the problems they were having in the area.

Irlene Turnquist voiced concerns about the water problems that could result from the proposed subdivision.

Joanne Farley, a realtor and the daughter of the developers, stated she felt that the development would be a positive addition to the immediate neighborhood. She said her parents intend to reserve one of the lots in order to live there. She said from the start they have known the special needs of the area and have taken this fact into consideration. She mentioned a resident who is the daughter of the former owner of the land, and who has lived on the property since she was born. She said she has never seen the land flood. There has been seepage from under the dike in high water years.

Olaf Olstrom, resident of the area, stated he was the one who took the 1981 picture of the flooding and voiced concerns about the flooding.

Gordy Triplatt, resident, stated he had lived in the area for 23 years and knew of the water problems of the area. He voiced concerns about the homes coming into the area with the flooding problems in the past.

Floyd Brady, resident of the Wapikiya area, also voiced concerns relative to the water and the problems that would be caused by the proposed development.

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

Ann Mary Dussault stated that the Board would delay action until next week, when the hearing would be continued. She invited written testimony until the following week and also invited the residents back next week to give public testimony if they desired.

APRIL 1, 1992 (CONT.)

Doug Kikkert, Environment Health Specialist, Missoula City-County Health Department, stated that the owner, in 1991, had monitored the ground water on this parcel. He said that most of the ground water monitoring holes failed at four feet, the minimum that is allowed by the State for an alternative sewer system. However, two sites with approximately 50 feet between them have been approved for a sewage system. These two sites do not have enough room for a community drainfield; it could only serve one or two single family residences with the proper design. More groundwater testing will be required to find an area that is big enough for a community drainfield. He said the property is in the 500- year floodplain and the drainfield has to be 100 feet from the 100-year floodplain. Because this subdivision is more than five lots in size, the Health Department will only be recommending direction to the State. The State will do the whole review of the sanitary restrictions on the lots for the water system and the proposed community drainfield.

A discussion ensued relative to the elevation of the subdivision. It was stated that the elevation was higher close to the dike, with the rest of the subdivision being relatively flat.

Ann Mary Dussault stated that it would be safe to say that if individual septic systems were looked at for the thirteen lots, testing would prove on a per lot basis, that they would not be able to find an acceptable sight for the sewer system.

Doug Kikkert agreed by saying that the system as it stands, would not work for thirteen individual sites. The State requires that mound system have alarms and a certified operator.

A general discussion ensued relative to how many mound systems have been permitted in Missoula County. There are approximately 20 similar to the sewer system proposed. Before 1986 they were termed experimental; however, the regulations were changed to allow them. The result has been no particular problems noted by the Health Department.

A question was asked relative to who would be responsible for the cost if the system failed or if it caused injury.

Michael Sehestedt, Deputy County Attorney, stated that blame would be hard to prove. He said proving what is happening down below the surface of the ground would be difficult and speculative.

Ann Mary Dussault stated that the issue with the water is really an issue that the State will make a decision on; which is whether or not the sanitary restrictions will be lifted. The Board needs to sort out, based on the information that will be gained next week, whether to proceed with the subdivision or stop it before it goes to the State.

Janet Stevens moved and Ann Mary Dussault seconded the motion to continue the hearing on Minster Meadows Preliminary Plat on April 8, 1992 at 1:30 p.m. The motion carried on a vote of 2-0.

HEARING: (COS Review) Use of Occasional Sale (Whalen)

Marnie McClain, Deputy County Attorney, explained that Frank Williams of Missoula Realty submitted an affidavit from Damien Whalen for an occasional sale exemption for COS #3879. The parcel is located in the Big Flat area, not too far past the Kona Ranch Bridge. Mr. Whalen wishes to divide a 12.7 acre parcel into a 5 acre parcel with a 7 acre remainder. He proposes to sell the occasional sale tract to Aaron and Beth Anderson for residential purposes.

According to the affidavit, COS #3879 was created in 1990 when a 40 acre tract was divided into 12.7 acre occasional sale (which Mr. Whalen purchased) with a 27 acre remainder by Champion Realty Corporation. (The 27 acre remainder was subsequently purchased and subdivided by summary plat.)

According to the records kept by the Missoula County Surveyor's office, Mr. Whalen has not previously used any exemptions to the Montana Subdivision and Platting Act.

The hearing was opened to public comment.

Ann Mary Dussault asked Mr. Williams what the Andersons' intentions were for the property.

Frank Williams explained they wanted to build a home on the property.

Ann Mary Dussault asked if they planned to subdivide the property further.

APRIL 1, 1992 (CONT.)

Frank Williams said the covenants restricted subdividing the property to a 5 acre parcel minimum. The remainder can't be split any further. The remainder will be either built on or sold by Mr. Whalen.

A discussion ensued relative to the access to the property. It was concluded that the access to the property is Big Flat Road.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the occasional sale based on the finding that the request doesn't appear to evade the Montana Subdivision and Platting Act and that there can't be any further division of the land. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the meeting was recessed at 3:10 p.m.

* * * * *

April 2, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Report of the Clerk of District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ending March 20, 1992.

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report of Justice of the Peace, Michael D. Morris, for month ending March 31, 1992.

DAILY ADMINISTRATION MEETING

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

Warranty Deed & Settlement Statement

The Board of County Commissioners signed a Warranty Deed & Settlement Statement from Missoula County to Vaughn M. and Karen S. Latour for Lot 9 of Grantland 13, a platted subdivision in Missoula County. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Water Line Easement

The Board of County Commissioners signed a Water Line Easement from Missoula County to Eagle's Nest Estates Inc., whereby the County grants an 18 foot wide easement for the construction and maintenance of a private, multi-family water line to serve Eagle's Nest Estates, as per the terms set forth, and said easement is perpetual and shall run with the land.

Quit Claim Deeds

The Board of County Commissioners signed Quit Claim Deeds (3) from Missoula County as follows:

- 1) to Missoula Investments, Inc., a Washington Corp., Yakima, WA
for Lot 16, Block 6, West View No. 3, Missoula County, Montana;
- 2) to Missoula Investments, Inc., a Washington Corp., Yakima, WA
for Lot 17, Block 6, West View No. 3, Missoula County, Montana; and
- 3) to Missoula Investments, Inc., a Washington Corp., Yakima, WA
for Lot 18, Block 6, West View No. 3, Missoula County, Montana.

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

APRIL 2, 1992 (CONT.)Budget Transfers

The Board of County Commissioners approved and signed the following budget transfers and adopted them as part of the FY'92 budget:

- 1) no. 92024, a request from the Office of Community Development to transfer \$3,000.00 from the Contracted Services account to the Common Carrier travel account to be able to appropriately pay costs incurred during the Director search and related interview process; and
- 2) no. 92027, a request from the County Attorney to transfer \$700.00 from the Supplies account to the Capital account in order to purchase a capital item, a card file cabinet.

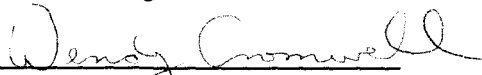
The minutes of the daily administrative meeting are on file in the Commissioners Office.


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APRIL 3, 1992

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.

On Saturday evening, April 4, 1992, Commissioner Dussault gave a welcome at the International Wildlife Film Festival being held at the Wilma Theatre.


Wendy Cronwell, Clerk & Recorder


Barbara Evans, Chairman

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APRIL 6, 1992

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

DAILY ADMINISTRATIVE MEETING

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

- 1) the Commissioners approved a request from Mrs. Elizabeth P. Dauven, owner of a 6-acre parcel of land in the Goodan Keil Estates development, Lot 8-C1, for an extension of time on her right of redemption so that she can complete the sale of the property, giving her until July 1, 1992, to redeem the parcel in question; and
- 2) the Commissioners gave ultimate settlement authority to Mike Sehestedt, Deputy County Attorney, to deal with the tax issue for the Harbine matter in Federal Court.

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

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APRIL 7, 1992

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

DAILY ADMINISTRATIVE MEETING

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

Addendum to Agreement for Services

The Board of County Commissioners signed an Addendum to the Service Agreement entered into between the Seeley Lake Refuse Disposal District, Missoula County, and Kerry Drew on September 13, 1990, agreeing that the Service Agreement shall remain in effect for up to eighteen months from June, 1992, and continued on a month to month basis for up to eighteen months rather than the previously stated twelve months, with all other provisions of the Service Agreement remaining in full force and effect.

APRIL 6, 1992 (CONT.)Lease Agreement

Chairman Evans signed a Lease Agreement between Missoula County and Missoula Aging Services, whereby the County will lease approximately 136 square feet more or less, located near the stairwell of the first floor of the Missoula County Courthouse Annex to Aging Services for the provision of food services or the "Deli space", as per the terms set forth, commencing April 1, 1992, through March 31, 1993, for a payment of \$10 per month or \$120.00 per year to the Employees Council to compensate for lost revenue due to the operation of the service and the space that it occupies. The Lease was returned to Missoula Aging Services for signatures.

Quit Claim Deed

The Board of County Commissioners signed a Quit Claim Deed from Missoula County to Ethel Rinehart of Denver, Colorado for Lot 4, West Riverside #2 - SUID #1918602, and cancels tax deed recorded in Book 343 Micro Page 1763. The Deed was returned to the Clerk & Recorder's Office.

Agreement & Correction Quit Claim Deed

The Board of County Commissioners signed a revised Agreement and Correction Quit Claim Deed between Dennis R. Washington and Missoula County to correct the legal description contained in the Warranty Deed of October 4, 1991, from Washington to the County conveying property affected by the lien of the obligation for the Special Improvement Districts in the Gleneagle/Grant Creek area, as per the items set forth.

The documents were returned to Mike Sehestedt, Deputy County Attorney, for further handling.

Other items included:

- 1) the Commissioners approved a request from Extended Family Services for a maximum of \$11,000 additional funds to complete their CDBG renovation project; the funds would be drawn from the CDBG Program Income Account and issued to EFS as a grant; and
- 2) a draft Memorandum of Understanding from Philip Maechling and Bud Hettich of the Office of Community Development listing the preliminary course of action to be taken by Eko Compost as agreed to by Eko Compost and OCD on March 11, 1992, for the purpose of resolving all outstanding floodplain violations, meeting all requirements to apply for a Letter of Map Revision, and satisfactorily meeting all State solid waste and local health department requirements for the Eko composting operations was approved by the Commissioners.

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

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APRIL 8, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present in the afternoon. Commissioner Stevens was out of the office until noon; and Commissioner Dussault was in Marana, AZ at the National Resource Technology Center on April 8th & 9th to make a presentation at a Fire in Resource Management course.

Audit List

Commissioners Evans and Stevens signed the Audit List dated 4/7/92, pages 4-30, with a grand total of \$87,782.32. The Audit List was returned to the Accounting Department.

Plat

The Board of County Commissioners signed the Plat for Patton Estates, Lots 2A & 2B, an amended subdivision plat, located in the NE 1/4, Section 13, T.12 N., R. 20 W., PMM, Missoula County, with the owners of record being John D. & Vicki L. Greathouse.

APRIL 8, 1992 (CONT.)Approval of Letter regarding Claim for Damages

The Board of County Commissioners signed approval of the letter to Mr. Frederick L. Kunzelman, Deer Lodge, Montana, from Hal Luttschwager, Missoula County Risk Manager, denying his claim against the Missoula County Jail for several articles of clothing that he alleges were not released to his attorney with the rest of his property.

Encroachment Permit

The Board of County Commissioners signed an Encroachment Permit, whereby the County agrees to permit Thomas John Evans Jr. and K. Lorraine Evans to encroach upon and use a portion of dedicated County roadway located near Lot 9 and Lot 10, Block 3, Carline Addition No. 1 for a period not to exceed 10 years, renewable at the option of the County, provided that the encroachment, consisting of 3 concrete foundation pads with building on the public right-of-way shall not be subject to additions, modifications, or renovations without the approval of the County Commissioners.

WEEKLY PUBLIC MEETING

Chairman Barbara Evans called the Public Meeting to order at 1:30 p.m. Also present was Commissioner Janet Stevens.

HEARING: (Certificate of Survey Review) Use of Occasional Sale (Gem Christianson) (a parcel of land in Section 25, Township 21 North, Range 17 West)

Marnie McClain, Deputy County Attorney, explained that Donald Wester Surveying has submitted a affidavit on behalf of Gem Christianson for an occasional sale for a parcel of land in Section 25, Township 21 North, Range 17 West. This property is located in the north end of the county in the Swan Valley, about one mile south of the Condon post office and store, on the east side of the county road.

According to a letter from Mr. Wester, a metal shop building already exists on the south end of the Christianson property. Mr. Fred Styler, owner of the building, wishes to acquire the approximately two acres of land surrounding the building. The eighteen acre remainder, which already has a house built upon it, will remain the property of Mrs. Christianson.

According to Donald Wester, this parcel was created in 1975 as a twenty acre parcel. According to the records kept by the Missoula County Surveyor's office, Mrs. Christianson has not used any exemptions to the Subdivision and Platting Act in the past.

The hearing was opened to public comment.

Fred Styler, a logger, explained the shop was used for repairing logging equipment. The shop is on the two acres that he will be buying. The remainder will be 18 acres.

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

Janet Stevens moved and Barbara Evans seconded the motion to approve the request by Gem Christianson for an occasional sale for a parcel of land in Section 25, Township 21 North, Range 17 West based on the fact there appears to be no evasion of the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

BID AWARD: Custodial Services for County

Barbara Evans explained from information received from Jim Dopp, Operations Officer, that bids for providing custodial services for Missoula County buildings were opened on Monday, March 30th. Four bids were received with one rejected due to non-compliance with bidding specifications. The following are the bids received and accepted for consideration:

Purity Cleaning Services	\$52,200.00/year
White Rose Cleaning Service	\$77,000.00/year
Quality Maintenance Ent.	\$81,979.80/year

Staff recommends award of the bid to Purity Cleaning Services as best and most responsive bidder. Final award subject to successful negotiation of contract.

APRIL 8, 1992 (CONT.)

Jim Dopp stated that Missoula County has historically provided custodial services as part of staff support. As a matter of policy the County has allowed every two or three years on all income provided services, to look to the private sector for an estimate of what those services would cost. This past fall when the County asked for bids for custodial services, the bids looked significantly lower. Based on this information, the Board of County Commissioners requested General Services to solicit bid proposals for the custodial services. At present, the custodial services for the County buildings is costing the County in wages, benefits and supplies approximately \$110,000 a year. It was asked that bids be submitted that were exactly the level of service currently provided. Also, a detailed bid analysis describing how much maintenance the public areas and the offices received based on the level of service the County has now. The bids reflect that level of service. The maintenance contract is scheduled to go into effect July 1st.

Janet Stevens moved and Barbara Evans seconded the motion to award the bid for the Missoula County custodial services to Purity Cleaning in the amount of \$52,200.00 year, as the lowest and most responsive bidder, subject to the successful negotiation of the contract. The motion carried on a vote of 2-0.

BID AWARD: Grounds Maintenance for County Office Building, Print Shop & Extension

Jim Dopp, Operations Officer, explained that bids for providing grounds maintenance services for Missoula County Office Building, Print Shop and Extension Office for the period beginning July 1, 1992 and ending October 1, 1995, were opened on Monday, March 30th. The following bid was received:

Quality Landscaping & Lawn Care \$19,400.00

The fiscal impact of this bid based on a yearly basis would be \$5,825.00.

The staff recommended that the bid be awarded to Quality Landscaping and Lawn Care, the only bidder for this service. Final award subject to successful negotiation of contract.

Jim Dopp said the duties are being performed currently by the Missoula Parks and Recreation Department under a basis contract through General Services.

Janet Stevens moved and Barbara Evans seconded the motion to award the bid for grounds maintenance for Missoula County Office Building, Print Shop and Extension Office to Quality Landscaping & Lawn Care in the amount of \$19,400.000 for the period beginning July 1, 1992 and ending October 1, 1995 subject to successful negotiation of the contract. The motion carried on a vote of 2-0.

BID AWARD: Grounds Maintenance for County Courthouse

Jim Dopp, Operations Officer, explained that bids were received for providing grounds maintenance services for the Missoula County Buildings for the period beginning July 1, 1992 and ending October 1, 1995, were opened on Monday, March 30th. The following bid was received:

Quality Landscaping & Lawn Care \$22,412.50

Staff recommends award of the bid to Quality Landscaping & Lawn Care, the only bidder for this service. Final award subject to successful negotiation of contract.

Janet Stevens moved and Barbara Evans seconded the motion to award the bid for grounds maintenance services for the Missoula County Courthouse to Quality Landscaping & Lawn Care in the amount of \$22,412.50 for the period beginning July 1, 1992 and ending October 1, 1995 subject to the successful negotiation of the contract. The motion carried on a vote of 2-0.

HEARING: Petition to Vacate Portion of Mullan Road between Frenchtown Schools

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor of the Clerk & Recorder's Office, that a petition to vacate "A portion of Mullan Road, located in Section 35, T15N, R21W, from the start of Frenchtown School District #40 property to the end of Frenchtown School District #40 property (east), P.M.M., Missoula County, Montana.

The reasons for this request are as follows: "To close Frenchtown Elementary School campus to traffic and to make road area available for new buildings."

The following landowners were notified of the hearing: Frenchtown school District #40, Community Church of Frenchtown, St. John The Baptist Catholic Church, Dennis and Nancy Cranston, Ellis E. and Esther R. Taylor, McCuaig Brothers Partnership, and Geraldine Moore Whitaker.

APRIL 8, 1992 (CONT.)

Don Latham, Chairman of the Board of the Frenchtown School, showed by means of an aerial photograph, what the school wanted to do with the vacated road. They want to put in a whole new sewer system, as well as a new gym and new classroom areas. A public turn-a-round will be built as well as a new parking lot.

Bob Holm, Operations Superintendent for the Road Department, explained the background to the road and why it was built in this manner. He said the road was left open in order to allow fire truck access through the school when the train tracks were blocked by trains.

Don Latham said they wish to construct a new dirt road access for Fire Department use only.

Bob Holm said they could vacate the road providing a large enough turn-a-round was built and if a utility easement was perpetuated.

Don Latham said the access road for the fire department could be placed anywhere the Road Department wanted it; he said there is a lot of flexibility where the driveway can be built.

The hearing was opened to testimony; there being none, the hearing was closed to public comment.

Barbara Evans explained that by law, the site to be vacated is required to be inspected by one of the Commissioners and the County Surveyor. The hearing will be continued next week, following the inspection.

CONTINUATION OF HEARING & DECISION ON: Minster Meadows (Preliminary Plat)

John Mangiameli, Office of Community Development, explained that this hearing is a continuation of the hearing from last week. Minster Meadows is located in the SW 1/4 of Section 19, T13N, R19W; north of Third Street and West of Stone Street. Lloyd and Ann Mae Cheff are the developers of this property and intend to subdivide a thirteen single family lot subdivision on 10.2 acres.

He said the Board has heard testimony from the staff, the representatives for the developer, Gilbert Larson; Doug Kikkert and the public. The purpose of the continuance was to hear testimony from Gilbert Larson regarding how flood-prone this property is.

He said Bud Hettich, Floodplain Administrator, found a book entitled, "Floodplain Information--Clark Fork, Missoula, Montana", prepared for the Montana State Resources Board by the Corp of Engineers in November of 1967. From the book, he showed a photograph of the land which had been taken before 1948 before the dike was built. He felt it was clear from this photo that the area was entirely under water at this time. The aerial photograph with a map overlay also shows this area with the dike constructed and references areas that are intermediate regional flood areas and overflow limits areas for this area. He said the best that can be interpreted at this time is that the dike has removed most of the property from the 100-year floodplain based on the information available in 1967. It states that this area is overflow area. The interpretation could be made that this area has been removed from the 100-year floodplain area, but is still within the 500-year floodplain.

Gilbert Larson of Druyvestein, Johnson & Anderson representing the developers, explained that a considerable amount of information had been obtained about the area during the past week. He showed from an aerial photo which was taken in June of 1975, flooding of a ten-year storm that had occurred. He indicated the areas flooded included areas around the property in question. He stated that the aerial couldn't be used as conclusive evidence; however, it provides some good information about the areas that are flooded. The area on the other side of the dike is flooded. There is no flooding on the Minster Meadow site and no apparent water in the area at all. He said the area on the other side of Stone Street where numerous mobile homes are located has not flooded. The developers sent a survey crew to determine random elevations of the property along edge of the road. The highest point on Minster Meadows is 3140.5 feet; the lowest is 3132.5 feet in the slough. The area that is in Minster Meadows is two feet higher than the mobile homes to the west. The mobile homes, he said, have never flooded; the residents have testified they have never had flooding problems. He said at the base of the dike, which is the lowest point on the residential portion of Minster Meadows, he felt that area would get wet in a very high water year. The elevation at this point is 3138 feet and he felt this hole or dip in the land was not representative of the whole property. The developer, however, intends to bring fill into this area to bring it up to the elevation of 3140 feet with the rest of the property. No homes or construction are proposed for this low area. He said the developers recognize however, that the property is in the 500-year floodplain. There are no conditions or restrictions against building in the 500-year floodplain. He said they are not proposing any basements for the homes and all floor elevations will be 18 to 24 inches above the existing gravel.

APRIL 8, 1992 (CONT.)

He said since last week at the public meeting, they have found out more about the flooding and the pictures that were taken of flooding. They talked with the residents and have found out that the picture of flooding was taken on the other side of the dike; therefore, the picture is not representative of the property. He said they have learned that to their knowledge there has never been any flooding in the area where the building is going to take place. There has been water observed adjacent to the dike where the low point is in the property.

He said he met with a resident who had been in the area for many years. The resident said that in 1964 he had observed the water had risen to within two feet of the top of the dike; it did not go over the dike. The neighborhood went out and sandbagged the top of the dike. This is going to be a concern to the residents in the area in the future. He said adding the subdivision would not increase that concern about danger or safety; he said it might provide a few more people to help out if this situation arises in the future.

He said they have also learned that especially at the base of the dike there will be times of the year that it will be soft and muddy. Again, the developers are not proposing any building or construction to be made in this area. The developers conclude from the above-mentioned information that the building area is not flood-prone. He said they cannot find any record or anything to demonstrate that there is a possibility for flooding or that it has a history of flooding.

He said that the developers were asked to do two things relative to the park access; they were asked to either take the common area and redesign the common area as lots, then move the common area over into the two lots. The second request is that they extend Anna Mae Court all the way to the dike. The purpose, he said, was to provide vehicle access to the dike. He said access to the dike can come from Stone Street. He said in his opinion, to extend and pave the road to provide access to this dike doesn't make sense. They can walk from the dike to the common area and open space area from the proposed easement; the dike is an eight foot area that they can't drive over and will have to walk around anyway. He felt that for the cost of this proposal, the developers wouldn't be providing much benefit. He said they have looked into the proposals and they are in favor of providing access. They would like to provide an easement for a twenty foot access-way between two lots to the common and open areas. He said the best and only site for a drainfield on the subdivision is in this area. If they try to provide access by switching the two lots and the common area, the project couldn't be done; they can't move the drainfield to another area.

The hearing was opened to public comment.

Dean Turnquist said that the developer hadn't talked with the owner of the trailer court because he said there had been flooding in the court. He said he talked to Mrs. Minster, the original owner of Minster Meadows, and she said there had been a picture in the Missoulian some years ago showing all her property under water. He said he tried looking at the microfilm at the library and he couldn't find the picture. However, she said the property was totally under water to the point it ruined the foundation on their house. He said this took place after 1948 when the dike was put in. He also voiced concerns about the water quality being endangered. He wanted a guarantee that his water would not be polluted by the sewer system for the subdivision.

Virginia Hinton asked if the developers cannot move the common area back, is it because the water table is too high? She said that on the other side of the property is the Stelling property; she said the Stelling property had the same elevation as the Minster Property. They have been turned down to put anything on their property because the water table is too high. She said the dike will not prevent seepage from coming through from underground. The mound system in high water years, if not monitored, will pollute the ground around it. She wanted to know who will monitor the septic system? She said that the residents were concerned for the safety of their existing wells and for those who will be buying the lots.

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

Gilbert Larson said that the photo in the Missoulian could have been taken before 1948 before the dike was built or the photo was taken of the land adjacent to the property.

He said the proposed site for the drainfield is the best possible site that will provide for the best treatment and the greatest separation between the bottom of the pipes and the groundwater; it will be six feet which is required by the State Health Department as well as the local Health Department. He said this mound system will provide for good adequate treatment of the effluent during all conditions before it hits the groundwater. The State requires that the nitrates be monitored, to model them to show what effect they may have on other wells and groundwater in the area. If it was determined by

APRIL 8, 1992 (CONT.)

the Health Department there was a risk of contamination from the mound system on any homes in the area, it would not be allowed. He said the Health Department reviews are extremely thorough. The developers are required to demonstrate through actual monitoring of the groundwater that there is safe separation.

Doug Kikkert said that the County makes recommendations to the State relative to the conditions on the lot. The State has a thorough review process for these sewer systems. Assuming that the groundwater that is being monitored (as required by the local level) passes, then the criteria for the sewer system design is reviewed by the State. Also, the nutrient modeling study is required to see where the nutrients will go and in what strengths. This information is reviewed by the State for adequacy and also for the final effect to see if it qualifies as having no effect to the neighbors wells for bacteria and nutrients. The construction criteria has to be engineered, inspected and reviewed by the State for the special sewer system. In the past, the State has required monitoring downstream to make sure of the effectiveness of the treatment of the system. This is not a common or regular process or requirement by the State.

He said the mound system was categorized by the local Health Department as an experimental system for a number of years; however, the principal of the sand mound system is proven and has been proven. There are approximately 2000 of these systems in Oregon and more in Wisconsin. There are a number of mound systems working and are an effective treatment process as compared to a standard drainfield.

He noted that the aerial photo taken in 1975 (brought in by Gilbert Larson), showed some of the property with some standing water along the dike in the northeast corner. Also, along the eastern property line, there is a little bit of standing water. However, the proposed drainfield site and residential areas are free of water.

Bob Holm said that the Corp of Engineers built the dike and it is inspected by the County once a year.

Virginia Hinton said she had talked with County officials in Hamilton and Victor regarding the mound systems; they said they are having trouble with the systems from time to time, especially in high water tables. They said they were having a difficult time getting permits for these systems in these areas because of the problems. They said if they are not monitored regularly and the water table changes, it can be a problem.

Janet Stevens said officials allow building in the 100-year floodplain areas in Ravalli County.

A discussion ensued relative to the location of the proposed subdivision; the location is in the 500-year floodplain, not the 100-year floodplain. Ravalli County is changing their regulations for building in the floodplain to match Missoula County's regulations. It was concluded that Ravalli County was having trouble with the mound system because it was built on the 100-year floodplain, whereas the proposed subdivision is on the 500-year floodplain.

Barbara Evans asked if the Health Department is aware of septic system failures when they occur.

Doug Kikkert said they rely upon the complaints from residents of the properties for system failures. The homeowner association may be responsible for monitoring the community system. This proposed system is a community sewer system and is required to have a certified operator there to monitor the system. If the system should fail, the responsibility of replacing the system should be written somewhere in the homeowners association's documents. Also, the system will have to be constructed all at once; it can't be constructed for one residence at a time.

Janet Stevens asked Doug Kikkert if there are any well contaminations in the area at this time?

Doug Kikkert said that there hasn't been any intensive testing; however, there hasn't been any continual contaminations that won't clear up.

Janet Stevens stated that she had reviewed the site and had noticed what appeared to be water damage on the base of the house that is sitting on the property.

Gilbert Larson said that the house has a basement which is a mistake for the area. He said they have had up to three feet of water in the basement. However, they have never had flood water up against the house or on the grounds around the house.

Joanne Farley, realtor and daughter of the developers, said that the house was under water in 1948 before the dike was built.

APRIL 8, 1992 (CONT.)

Gilbert Larson said the requirements by the State are not optional for the mound systems. The developers are required to have a licensed operator; the system must be engineered and certified by an engineer. These are not optional, they are requirements. The fail-safe type of installation features such as dual pumps and alarms, must be installed and are required by the State and the Health Department.

Janet Stevens asked what kind of septic systems the trailer court has.

Doug Kikkert said he would have to guess that if they were put in before 1969, they would be cess pools or septic seepage pits. Replacement systems have been installed for those that have failed, to upgrade them to a drainfield. However, generally the existing systems are either cess pools or seepage pits for those residents.

It was mentioned that the owner of the trailer court has to have the septic system pumped at lease once or twice a year.

Barbara Evans said she is not prepared to make a decision on this issue. She stated she was not present at last weeks hearing, but had read some of the testimony. She felt she didn't have enough knowledge to make a decision on this issue at this time.

Janet Stevens asked the residents present what kind of septic systems they have.

The general consensus was septic tanks and drainfield systems.

Barbara Evans said the decision for this issue will be continued until next week; the hearing was closed to public comment at this time.

HEARING: (Certificate of Survey Review) Use of Occasional Sale (Sherry Gray) (Book 347 Page 175 Micro)

Marnie McClain, Deputy County Attorney, explained that Jim Weatherly of Sorenson & Company has submitted an affidavit on behalf of Sherry Gray for an occasional sale for a parcel of land described at Book 347 Page 175 Micro. This property is located in Alberton and is slightly larger than fourteen acres in all. Ms. Gray proposes to divide the property into a three acre parcel (with an existing cabin) and an eleven acre parcel and offer the three acre parcel for sale.

According to the affidavit which has been submitted, there have not been any divisions of this property since 1974. According to the Surveyors Office, Ms. Gray has no record of using the occasional sale exemption or any exemptions in the past.

Nick Kaufman, Sorenson & Co., representing Sherry Gray, said that the persons interested in buying the property would buy the three acres with an existing cabin that is located on the property. He asked the Board to approve the request by Ms. Gray for an occasional sale.

The hearing was opened to testimony; there being none, the hearing was closed to public comment.

Janet Stevens moved and Barbara Evans seconded the motion to approve the request by Sherry Gray for an occasional sale exemption for a parcel of land described at Book 347 Page 175 Micro, dividing the property into a three acre and eleven acre parcel, based on the fact that it doesn't appear 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 meeting was recessed at 2:35 p.m.

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APRIL 9, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioners Evans and Stevens attended the MACo District 10 & 11 Counties Meeting in Polson during the day.

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APRIL 10, 1992

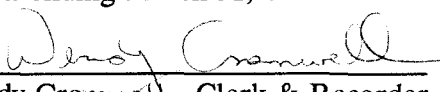
The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Stevens was out of the office all afternoon.

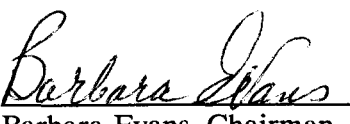
Election Canvass

In the forenoon, Commissioner Dussault, County Auditor Susan Reed, and County Surveyor Horace Brown canvassed the Missoula Rural Fire District Election, which was held April 7, 1992.

Monthly Report

Chairman Evans 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, 1992.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

APRIL 13, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending February 29, 1992.

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 Montana Department of Transportation & Missoula County regarding Project No. HES 533-1(3)3 for the purpose of financing and installing safety improvements intended to aid in the reduction of accidents on FAS 533 on the 270 curve between MP 3.0 to MP 3.2, as per the terms set forth, with the cost of the project estimated to be \$1,500.00, and is to be completed by October 31, 1992. Two copies of the Agreement were returned to the Department of Transportation for signature.

Other items included:

- 1) the Commissioners appointed Susan C. Manthis, an employee of the Driver's Exam Office, as a deputy registrar for Missoula County; the document was returned to the Elections Office; and
- 2) a discussion was held with representatives of Missoula Rural Fire District regarding the District's finances--the representatives of Rural Fire felt certain that the recent vote which releases them from I-105 will result in enough money to end the year without a deficit.

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

APRIL 14, 1992

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:

APRIL 14, 1992 (CONT.)

Declaration of Covenant

The Board of County Commissioners signed approval of the Declaration made by owners, Fred J. and Gayle L. Stout, who declare that Tract C shown on their Certificate of Survey contains less than twenty acres and 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.

Lease Agreement

The Board of County Commissioners signed the Lease Agreement between Missoula County and Once Around, Inc. for the lease of undeveloped ground at the southwest corner of the Missoula County Fairgrounds extending north and east approximately 350 feet from the south west corner and long the outside curve of the race track and 10 horse stalls located in the west end of race barn #11, to be used solely for the operation of a miniature auto (go cart) race track and ancillary related purposes, as per the terms set forth, from April 14, 1992, through September 30, 1994, for a rental payment of \$1,800 for each month, pro-rated for less than 30-day periods of operation, with a guaranteed minimum of \$7,500 each year. The Lease was returned to Sam Yewusiak, Fair Manager, for further signatures.

Professional Services Contracts

The Board of County Commissioners signed Professional Services Contracts (2) between Missoula County and Tarn Ream and Michael E. Meyer, independent contractors, for the purpose of planning, acquiring supplies, instruction and clean-up for classes offered to the public by Missoula Museum of Arts, as per the terms set forth, commencing January 1, 1992, for a payment of \$10.00 per hour, and will be in effect until contract is terminated by either party.

Agreement for Provision of Professional Security Services

The Board of County Commissioners signed an Agreement for the Provision of Professional Security Services between the Missoula County Sheriff's Department and the Bureau of Land Management, U.S. Department of Interior, for the purpose of protecting horses being held for sale at the Robbins Livestock Auction Company from April 23, 1992, through April 26, 1992, for a total estimated payment for the requested 30 hours of service of \$524.41. The Agreement was returned to the Sheriff's Department.

Other items included:

- 1) the Commissioners appointed Todd Westlie to fill a vacancy on the East Missoula Fire District Board of Trustees, effective until the next School Election, which will be held on April 6, 1993; and
- 2) the Chamber dues for 4/1/92-4/1/93 were discussed, and the Commissioners specified that the \$74 dues would be paid, but not the optional \$25 for the building remodeling fund.

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

Site Inspection

In the afternoon, Commissioner Dussault accompanied County Surveyor Horace Brown for a site inspection on the request to vacate a portion of Mullan Road between the Frenchtown Schools.

* * * * *

APRIL 15, 1992

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Dussault attended a meeting of the Tax Reform Coalition in the forenoon; in the evening, she attended a special meeting of the Air Pollution Control Board held at the City Council Chambers.

Audit List

The Board of County Commissioners signed the Audit List dated April 14, 1992, pages 4-32, with a grand total of \$104,388.96. The Audit List was returned to the Accounting Department.

APRIL 15, 1992 (CONT.)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 Hicks-Brester Addition No. 1, a re-subdivision of the N 1/2 of Lot 30 of R.M. Cobban Orchard Homes Addition, located in the NW 1/4 of the SW 1/4 of Section 29, T. 13 N., R. 19 W., PMM, with the owners of record being Pauline Hicks & Jean Brester. The Commissioners also signed a Subdivision Improvements Agreement and Guarantee, whereby the installation of a fire hydrant, which is a condition of approval of the plat, has not been completed; and as security for completing this improvement in the event that it is not vacated, the Guarantors are providing a Trust Indenture for Lot 30-B of the Hicks-Brester Addition No. 1, which has a value of at least \$45,000.00, with the approximate value of the improvements being \$8,486.00.

Agreement Extension

The Board of County Commissioners signed the Agreement Extension between Missoula County and the Walter Vannoy Ranch of Greenough, Montana for pit run and crushed gravel removed from the ranch property, as per the terms and prices set forth, for a term of six months from the signature date, with an extension of time if agreeable to both parties.

Warranty Deed & Settlement Statement

The Board of County Commissioners signed a Warranty Deed & Settlement Statement from Missoula County to John H. & Lorie K. Klaudt for Lot 3 of Grantland 12, Missoula County. The deed was returned to Jim Dopp, Operations 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 1:35 p.m. by Chairman Barbara Evans. Also present were Commissioners Ann Mary Dussault and Janet Stevens.

DECISION ON: Request to Vacate Portion of Mullan Road between Frenchtown Schools

Barbara Evans stated that this is a continuation of the hearing from last week. Ann Mary Dussault and Horace Brown, Surveyor, had visited the site on April 14, 1992. She said the reason for the request to vacate Mullan Road between the Frenchtown Schools was to close the campus to traffic and to make the road area available for new buildings. The adjoining land owners have been notified.

Horace Brown, Surveyor, stated he was not present at the hearing last week. He said there were some issues that needed to be worked out with the Surveyors Office. He wanted to know if the school was going to provide more than a 60-foot right-of-way for the proposed turn-a-round; the Road Department will need a 100-foot turn-a-round for their vehicles and equipment.

Barbara Evans suggested approval of the request be contingent upon a 100-foot turn-a-round.

Horace Brown expressed concern that the current access to the school remain where it is located now; the school is proposing to relocate the access. He stated that there would be traffic safety concerns if the access was relocated. These are concerns that need to be addressed and resolved.

No one from the Frenchtown School Board was present.

Janet Stevens moved and Ann Mary Dussault seconded the motion to postpone the vacation of "a portion of Mullan Road, located in Section 35, T15N, R21W, from the start of Frenchtown School District #40 property to the end of Frenchtown School District #40 property (east), P.M.M., Missoula County, Montana" until next week. The motion carried on a vote of 3-0.

DECISION ON: Minster Meadows (Preliminary Plat)

Barbara Evans explained that the hearing had been conducted last week, and today's decision closed to public testimony. The record was held open until today to hear further comments by the developers and questions from the Board.

APRIL 15, 1992 (CONT.)

Janet Stevens asked where the location of the existing City sewer was at this time.

Gilbert Larson of Druyvestein, Anderson & Johnson, stated that it ended at Reserve Street, a little over a mile from the proposed subdivision.

Ann Mary Dussault stated she had read the testimony from the hearing last week and wanted to differentiate between the flooding of the area and standing ground water. She said the decision on the location for the septic system is determined by the State; she said her concern wasn't whether an alternate site could be found for the septic system. She said that the developers had said last week that the issue of flooding was laid to rest. The issue of standing ground water in the area where the homes will be built, in her opinion, has not been laid to rest.

Gilbert Larson said the developers were able to determine that before there could be water standing in the proposed building area, there would have to be water over two feet deep against the mobile homes on the other side of the street. He said as far as any type of flooding or standing ground water in the area they are proposing to build, the developers can't see where there would be any potential for this to happen. He said they are aware there is potential for water where the slough exists. They checked to see if there was potential for the slough to rise to an elevation where it could flood and checked against the high water maps and were not able to find any evidence of that. Doug Kikkert located on an aerial photo some standing ground water against the dike. However, this is not an area on which the developer is proposing to build homes. He said because of the evidence, they don't believe there is any potential for flooding on the proposed building site or the proposed site for the sewer system.

Ann Mary Dussault asked what the depth of the crawl spaces for the homes would be.

Gilbert Larson stated that the homes will be built up 18 inches to 2 feet above the existing ground. There will be no basements; the home that exists on the site has a basement and has had problems with flooding in the basement. The actual depth of the crawl space would be about four feet.

Ann Mary Dussault said that even if the homes were built up two feet, there would still be two feet of crawl space in the ground. The ground water to surface ratio for the septic system is four feet. She said the tests that have been done are marginal; they were very close. A discussion ensued relative to putting a vapor barrier in the crawl spaces should the water rise up to that level. A sump pump to draw the water away from the area is also a possibility.

Gilbert Larson said the developers are not planning to put in vapor barriers in the crawl spaces; The developers could look into installing them if there was a need. He said from what they have been able to determine about the area, he doesn't feel water will come within the crawl space.

Janet Stevens asked if this meant that the crawl spaces wouldn't be down far enough to have any moisture in them.

Gilbert Larson said that the high water they found during the peak season in a high water year was four feet below the surface.

Ann Mary Dussault said it was her understanding that some of the test holes failed last year.

Gilbert Larson stated that they failed to meet the four foot requirement. The minimum they found was three and a half feet.

Janet Stevens said for clarification, the ground that is proposed to be built upon is higher than the other side of the street where there are mobile homes.

Gilbert Larson said that they went into the trailer court and took representative elevations of the area where the mobile homes are located and found it was two feet lower than the proposed building site.

Barbara Evans said her cousin lived in that mobile home court for ten years and never had seen water standing in the area.

Janet Stevens asked what wording the developer desired to have instead of Condition No. 6 in the staff's recommendation.

Gilbert Larson stated that the wording required that either the subdivision be redesigned and the common area be moved to a different area, or that the cul-de-sac be extended to the dike. The wording that is desired by the developer is "an access be provided from the cul-de-sac to the common area." The

APRIL 15, 1992 (CONT.)

developers want to provide a 20-foot improved walkway that would have wood chips or whatever, to fit in with the rest of the neighborhood.

Janet Stevens asked if a condition could be required to waive the right to protest a RSID for sewer if and when it comes to the area?

Gilbert Larson said they wouldn't have much of a problem with the requirement because the subdivision sewer system is laid out in such a manner as to make it easy to adapt and connect to municipal sewer; it was designed with that in mind. It would not be that expensive for the residents to connect to the sewer.

John Mangiameli, Office of Community Development, said that the staff recommends that the Condition No. 6 be amended to reflect the developer's wording. He said paving the walkway would not be as appropriate to the area as woodchips. He said staff recommends that an eight foot improved section with woodchips with the remaining twelve feet be landscaped in such a way so that the back yards can encroach upon the easement to fit into the neighborhood.

Gilbert Larson said the condition worded in this manner would be acceptable.

Ann Mary Dussault asked about Condition No. 3, which requires driveway approaches be paved at least 20 feet back from the road.

John Mangiameli stated that the intent of the condition was to require that the driveways be paved for a minimum of 20 feet back from Anna Mae Court.

It was concluded that Anna Mae Court is in the Air Stagnation Zone and would be paved in its' entirety; the covenants also require that the driveways be paved in their entirety.

Janet Stevens moved and Barbara Evans seconded the motion to approve Minster Meadows Preliminary Plat proposal based on the findings of fact contained in the staff report and subject to the following conditions:

1. Sanitary restrictions be lifted by State and Local health authorities.
2. Final road and drainage plans shall be reviewed and approved by the County Surveyor's office.
3. Driveway approaches shall be paved for at least 20 feet back from the road at the time of construction.
4. All appropriate easements shall be shown on the face of the plat.
5. The developers shall remove all human-caused debris, exclusive of concrete or other similar items that would place an undue cost burden on the developer.
6. The developer shall be required to provide a 20 foot pedestrian easement as an access between Lots 10 and 11 to the common area. The easement will consist of 8 feet of improved walkway with the remaining 12 feet landscaped in such a way that the back yards cannot encroach upon the easement and fit into the neighborhood.
7. All utilities must be installed underground and utility easements must be shown on the Plat.
8. Approach permit shall be applied for and granted prior to home construction. Driveways will be paved for distance of 20 feet back from Stone Street.
9. The covenants shall include 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 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, 721-5700 ext. 3484. Where feasible, a copy of "Living with Wildlife" should be given to lot purchasers.
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.

APRIL 15, 1992 (CONT.)

11. The developer shall file Property-Owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State.

12. The boundary of the 100 year Floodplain shall be shown on the face of the plat.

13. Acceptance of the deed to a lot in the subdivision constitutes a waiver of right to protest any future RSID created for the purpose of providing sewer service to these lots on the same basis that sewer service is provided to other properties in the same area.

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

Ann Mary Dussault expressed concern that there is no final verification that there is not sufficient reason to believe there won't be standing ground water in the area where the homes will be built. She said she wanted to clarify she isn't concerned about the septic system that will be put in place; assuming that it receives the approval from the State. She said she believes that the evidence indicates that these systems are good if appropriately maintained, and are in fact, better than the majority of the systems that exist now. She says she doesn't want her "no" vote to be misconstrued relative to that system because she feels this type of system should be encouraged.

HEARING (Certificate of Survey Review): Use of Occasional Sale (Drew) COS NO. 370 Tract 26

Marnie McClain, Deputy County Attorney, explained that Eldon Inabnit of Eli and Associates has submitted an affidavit on behalf of Lynette Drew for an occasional sale for Tract 26 of COS 370, which is located in Evaro. This tract was created in June 1974 when a 230+ acre parcel was divided into 21 parcels. The applicant proposes to divide an 11.15 acre tract into 2 parcels of approximately equal size.

According to the records kept by the Missoula County Surveyor's Office, Lynette and Urban Drew used the gift to a family member exemption in 1975.

The hearing was opened to public testimony.

Tex Cates, Realtor, explained that the Drews live in South Africa. They purchased the 50 acres (contiguous five 10-acre parcels) approximately two years ago. They now wish to split one of the five parcels and build a summer home; a man in South Africa wishes to purchase the other half of the parcel.

A discussion ensued relative to the background of the Drews' request. Lynette Drew desires to built on this particular parcel because of the view; this parcel they feel, is the best place on the 50 acres to built as the rest of the acreage is steep. Their intent is to sell the remaining 45 acres.

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

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the request by Lynette Drew for an occasional sale of Tract 26 of COS 370 located in Evaro, based on the fact that it doesn't appear to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

HEARING (Certificate of Survey Review): Agricultural Exemption (Milodragovich) COS No. 2759

Marnie McClain, Deputy County Attorney, explained that Glenn Howard of Druyvestein, Johnson and Anderson has submitted an affidavit for John R. Milodragovich for an agricultural exemption. The property is located in the Rock Creek area, near the air strip. The parcel which has been proposed for the agricultural exemption is approximately 18 acres in size, located south of the Clark Fork River. This parcel presently has no access and no facilities and is currently used for range and timber land. It is Mr. Milodragovich's intention to sell the parcel to a neighbor, Clay McFarland.

According to the records kept by the Missoula County Surveyor's Office, Mr. Milodragovich has not used any exemptions to the Subdivision and Platting Act in the past.

The hearing was opened to public comment.

Gilbert Larson, representing the Milodragovich's, explained that because of the Burlington Northern/Montana Rail Link tracks there is no access to the property. The property will be sold to the McFarland's whose land is contiguous to the parcel.

A discussion ensued relative to Mr. McFarland's land holdings. Mr. McFarland has approximately 200 acres which is used for range and timber land. It was concluded that the parcel will remain a separate

APRIL 15, 1992 (CONT.)

parcel even though in Mr. McFarland's ownership; the agricultural exemption will continue with this parcel even if the larger property would ever be proposed to be divided. The owners have to come before the Board to have the exemption withdrawn.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the request by John R. Milodragovich for COS 2759 for an agricultural exemption based on the fact there appears to be no attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

Resolution No. 92-027

The Board of County Commissioners signed Resolution No. 92-027, a resolution granting Agricultural Exemption to John R. Milodragovich for Certificate of Survey No. 2759.

HEARING: Petition to Vacate Portion of Bird Lane

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor for the Clerk and Recorder's Office, that a petition to vacate "A portion of Bird Lane, located in NW 1/4 of Section 22, Township 12 North, Range 20 West from Highway 93 to Moe Road and as shown on Certificate of Survey No. 2575, P.M.M., Missoula County, Montana."

The reason for this request is as follows: "Road area is being used as a dump site." The following landowners were notified of the hearing: James W. and Candace A. Goff and Norma Rossignol.

Horace Brown explained that when the Highway Department made improvements to the road, a guard rail was installed completely across the road so that people could no longer enter the highway from that point. He said the benefits to vacating the road would be that the Road Department would not have to maintain the road and it would add taxes to the County tax roles.

The hearing was opened to public comment.

A discussion ensued relative to the closure of the access and how people were getting into this area to dump garbage. It was concluded that entrance was gained from the highway, then past Moe Lane onto Bird Lane.

Ann Mary Dussault asked what would stop people from getting into the area and dumping just because the road is abandoned?

Jim Goff, resident, said that he had instigated the petition to vacate the road. He said if the request is approved, he will block the road off; the area will be cleaned up as soon as the road is blocked. He said there are refrigerators, dead cows, and other miscellaneous garbage being dumped in this area.

Barbara Evans asked Mr. Goff to contact Bill Lindstrom at the Rural Fire Department. Mr. Lindstrom along with BFI may be able to help clean up the area. She said it would be worth trying to get the help.

Barbara Evans stated that the hearing will be continued next week, following the inspection by the County Surveyor and one of the Commissioners.

HEARING: Petition to Vacate Additional Portion of Old Lolo Creek Road

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor for the Clerk and Recorder's Office, that a petition to vacate "Old Lolo Creek Road, located in Section 35, Township 12 North, Range 21 West from Highway #12 to #12 North of present State #12, P.M.M. Missoula County, Montana."

The reasons for this request are as follows: "It serves no purpose for any public transit. See also page filed with County Commissioners March 11, 1992."

The following were notified of the hearing: David A. Trusty, R. Stewart and Allison Williams, Earl and Mary Jeffords, Champion International Corp, Bill and Jackie Lustgraff, Roy and Stella Van Ostrand, Everett and Patricia Pierson, Arthur Greydanus, and Lolo National Forest Service.

APRIL 15, 1992 (CONT.)

Horace Brown explained that this request is a continuation of the closure of the same road a few weeks ago. He said the problem with this request is that Champion International has an access road that is on the old highway. He said Champion would be "landlocked" if the road was closed at this point.

The hearing was opened to public testimony.

Jim Poling representing Champion International, explained by using a plat, what properties were owned by Champion and how abandonment of the roads in the area were cutting off legal access to its lower lands in the area. He said without the road, Champion has no way to get into that lower piece of ground; this ground is relatively flat, and could be subdivided in the future. He said if the road was abandoned just half way to this lower flat section, they would be able to have adequate access into their property. Chickaman Gulch, a privately owned road in the area which is fenced off, could provide access. However, it is very steep and could not provide access to the lower part of the property. He said Champion agreed to close this portion in the original abandonment of the old highway a few weeks ago, with the stipulation that it be stopped there and that Champion would retain the ability to use the remainder of the road. He said that Champion was concerned that they would be "landlocked" out of a fairly valuable piece of land without the road.

Barbara Evans asked why the landowners wanted the remainder of the road vacated.

Horace Brown said he thought that Mr. Van Ostrand wanted it vacated so that he could gate it and keep people out of there. He said a solution to the issue might be to have Mr. Van Ostrand give Champion an easement across both the roads. The hearing could be postponed until this was worked out between them. He said the rest of the road could then be vacated. He said that if Champion needs to have access up to their property, it would be up to Mr. Van Ostrand to either give them an easement before the road is vacated or there would be no question that the road shouldn't be vacated.

Jim Poling said Champion will need to obtain an easement for all uses; it could not be a restrictive easement.

Barbara Evans explained that the hearing will be continued until next week, following an inspection by the County Surveyor and one of the Commissioners.

Jim Poling indicated that Chickaman Gulch road was too steep to obtain access to the lower part of the property.

Horace Brown said Champion would have to gain easement across the road as it now exists, not Chickaman Gulch. He said he would contact Mr. Van Ostrand and inform him of the need for Champion to gain access to their property by use of an easement. He asked Mr. Poling how wide an easement they would require.

Jim Poling said Champion usually takes about a 60 foot width.

CONSIDERATION OF: Spring Meadows Addition (Final Plat)

John Mangiameli, Office of Community Development, explained that Spring Meadows is located at the Wye, just northeast of the intersection of Interstate 90 and US Highway 93. The developer, David Theisen proposes a 67 single-family lot subdivision on 53.2 acres. The area is zoned C-RR3. This subdivision is at the same location as the previously approved Bay Meadows.

At the Public Meeting on November 20, 1991, the Board of County Commissioners approved the preliminary plat of Spring Meadows, based on the findings of fact and subject to eleven conditions.

The Office of Community Development recommends that Spring Meadows Final Plat be approved subject to the findings of fact and the following conditions:

1. Sanitary restrictions shall be lifted by State and Local health authorities.
2. The developer shall dedicate additional common land so as to provide an interior off-road pedestrian corridor that will become part of a community-wide pedestrian network as described in the Wye/O'Keefe Plan. This corridor shall be developed and not be less than 20 feet wide.
3. The developer shall vacate the subdivision plat of Bay Meadows prior to the filing of Spring Meadows.

APRIL 15, 1992 (CONT.)

4. All street names shall be approved by the County Surveyor.
5. Grading, drainage, erosion control, and road plans shall be approved by the County Surveyor.
6. The Articles of Incorporation and By-laws of the Property-Owners Association shall have proof of filing with the Secretary of State prior to filing of the plat.
7. All driveways shall be paved a minimum of 20 feet back from the roadway. The improved portion of the driveway consist of a gravel surface which is well drained. These driveways shall be provided for at the time the lots are built on, or in the covenants for each lot. The grade of the driveway shall not exceed 12%.

The hearing was opened to public testimony.

Gilbert Larson of Druyvestein, Johnson and Anderson, stated the developers are striving to meet the conditions and are in the process of having them resolved before the final plat is filed.

A discussion ensued relative to the subdivision being within the Air Stagnation Zone and whether the developers intended to pave all of the driveways within the subdivision.

Gilbert Larson stated that it is the developers intention to pave the entire driveways.

A discussion ensued relative to whether it was a requirement within the Air Stagnation to pave beyond the 20 foot minimum requirement.

The twenty-foot minimum requirement was placed in the conditions so that at least twenty feet would be paved and no gravel would be extending out to the roadway. This cuts down on the dust from cars accessing onto County roads from the driveways. The developers are proposing to pave the rest of the roads and bring them up to County standards in order for the County to accept the roads. This paving will be done when the last house is completed so that the roads are not torn up in the building process.

Horace Brown said that the developers will be required to put some dust abatement on the roads if they are within the Air Stagnation Zone until they are paved.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the final plat for Spring Meadows 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. The developer shall dedicate additional common land so as to provide an interior off-road pedestrian corridor that will become part of a community-wide pedestrian network as described in the Wye/O'Keefe Plan. This corridor shall be developed and not be less than 20 feet wide.
3. The developer shall vacate the subdivision plat of Bay Meadows prior to the filing of Spring Meadows.
4. All street names shall be approved by the County Surveyor.
5. Grading, drainage, erosion control, and road plans shall be approved by the County Surveyor.
6. The Articles of Incorporation and By-laws of the Property-Owners Association shall have proof of filing with the Secretary of State prior to filing of the plat.
7. All driveways shall be paved a minimum of 20 feet back from the roadway. The improved portion of the driveway consist of a gravel surface which is well drained. These driveways shall be provided for at the time the lots are built on, or in the covenants for each lot. The grade of the driveway shall not exceed 12%.

The motion carried on a vote of 3-0.

There being no further business to come before the Board, the meeting was recessed at 2:35 p.m.


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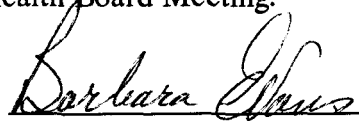
APRIL 16, 1992

The Board of County Commissioners did not meet in regular session; Commissioner Stevens was out of the office all day, and Commissioner Dussault was in Helena attending a meeting of the MACo Taxation and Finance Committee.

APRIL 17, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was in Polson attending a Mental Health Board Meeting.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

APRIL 20, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was out of the office all week, from April 20th through April 24th.

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 Payroll Transmittal Sheet for pay period #7 (3/15/92 - 3/28/92) with a total Missoula County payroll of \$386,539.48. The Transmittal Sheet was returned to the Auditor's Office.

Budget Transfers

The Board of County Commissioners approved and signed the following budget transfers for Disaster and Emergency Services and adopted them as part of the FY'92 budget:

- 1) no. 92010, a request to transfer \$2,700.00 from the Safety Supply (\$700), Common Carrier (\$1,000), and Meals and Lodging (\$1,000) accounts to the General Training account as the DNRC Grant is 100% for equipment and the County provides the training and administration for hazmat monitoring and detection methods; and
- 2) no. 92011, a request to transfer \$1,000.00 from the Safety Supply account to the Contracted Services account for unprogrammed contract service for paper titled "Hazardous Waste and the Missoula Economy: A Win-Win Approach" by Marlene Nesary.

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

Site Inspections

In the afternoon, Commissioner Evans accompanied County Surveyor Horace Brown on site inspections for the petition to vacate a portion of Bird Lane and a petition to vacate an additional portion of Old Lolo Creek Road.

APRIL 21, 1992

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:

APRIL 21, 1992 (CONT.)

Resolution No. 92-028

The Board of County Commissioners signed Resolution No. 92-028, a Budget Amendment for FY'92 for Capital Improvements, including the following expenditure and revenue, and adopted it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>Budget</u>
Backup Server and related Network Hardware and Equipment - 2410-250-414401-929	\$10,217.00
<u>Description of Revenue</u>	<u>Revenue</u>
Montana State Dept. of Revenue Data Processing Services for FY'92	\$10,217.00
Transfer from Acct. #1000-230-347042	

Other items included:

The Commissioners made the following appointments to the Missoula County Park Board:

Ed Heilman was reappointed to a three-year term, through the first Monday in May of 1995; Kari Lind was appointed as a "regular" member to fill the unexpired term of Earl Reinsel through May 3, 1993; Robert Peterson was appointed as the first alternate member through May 3, 1993; Patricia Rawlings was appointed the second alternate member through May 3, 1993; and Jerry Marks will fill in for the Extension Office representative until David Crabtree's position is filled around the middle of June.

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

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APRIL 22, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present in the afternoon. Commissioner Dussault was at MDSC all forenoon participating in interviews being held there.

Audit List

Commissioners Evans and Dussault signed the Audit List, pages 5-32, with a grand total of \$82,989.10. The Audit List was returned to the Accounting Office.

WEEKLY PUBLIC MEETING

The Public Meeting was called to order at 1:35 p.m. by Chairman Barbara Evans. Also present was Commissioner Ann Mary Dussault.

PROCLAMATION: "Ray Nicklay - Missoula Volunteer Day"

WHEREAS, Missoula citizens volunteer for many organizations to enrich the community's culture, education, and well-being; and

WHEREAS, these volunteers efforts are invaluable to our community; and

WHEREAS, Ray Nicklay exemplifies the spirit of volunteerism in Missoula; and

WHEREAS, Sentinel Kiwanis wishes to recognize this spirit of volunteerism;

NOW, THEREFORE, we the County Commissioners of Missoula County, and the Mayor of the City of Missoula, do jointly recognize and proclaim Thursday, April 30, 1992 as **RAY NICKLAY - MISSOULA VOLUNTEER DAY** and invite all citizens to join in recognizing the value of volunteer work in promoting good citizenship and Ray Nicklay's effort to promote a better Missoula community.

APRIL 22, 1992 (CONT.)

Ann Mary Dussault moved and Barbara Evans seconded the motion to adopt the proclamation. The motion carried on a vote of 2-0.

BID AWARD: Steel Shelving (Records Management)

Jim Dopp, Operation Officer, explained that bids for supplying shelving for records storage were opened on Monday, April 20th. Seven bids were received with one rejected due to non-compliance with bidding specifications. The following is a recap of the bids received and accepted for consideration:

ATD American Co.	\$ 9,961.38
Business Machines-Delaney's	\$12,080.92
Global Equipment	\$11,449.68
Office Supply Co.	\$ 8,690.22
Limestone Detailers	\$ 9,834.00
Dundas Office Interior	\$10,305.90

The staff recommends award of the bid to Office Supply Co. as best and most responsive bidder.

Ann Mary Dussault moved and Barbara Evans seconded the motion to award the shelving bid for records storage to Office Supply Co. in the amount of \$8,690.22 as the best and most responsive bidder. The motion carried on a vote of 2-0.

DECISION ON: Request to Vacate Portion of Mullan Road between Frenchtown Schools

Barbara Evans stated that this item has been before the Board on April 8th and April 15th. She asked Horace Brown of the Surveyor's Office if the issues had been resolved.

Horace Brown stated that he talked to representatives from Frenchtown School. The school will leave a turn-a-round area on the west side of the property for use by the Road Department to turn their equipment around. The entrance they wanted to put onto the highway is for fire use only and would have a gate installed so that the general public couldn't use it. They will use the exit on the southeast side of the property as they currently do now. He asked if an easement could be reserved for the turn-a-round area on the west boundary of the property?

The representatives from Frenchtown school said that this would be agreeable to them.

A discussion ensued relative to a utility easement. It was explained that an utility easement is always reserved. An easement is reserved for any utilities that are in the area.

The site was inspected by Ann Mary Dussault and Horace Brown on April 14, 1992.

Ann Mary Dussault moved and Barbara Evans seconded the motion to grant the request to vacate portion of Mullan Road between Frenchtown schools described as "a portion of Mullan Road, located in Section 35, T15N, R21W, from the start of Frenchtown School District #40 property to the end of Frenchtown School District #40 property (east), P.M.M., Missoula County, Montana" contingent upon the dedication of an easement on the west side of the property for a turn-a-round for the Road Department equipment. The motion carried on a vote of 2-0.

DECISION ON: Petition to Vacate Portion of Bird Lane

Barbara Evans stated that she and Horace Brown inspected the road on April 20, 1992.

Horace Brown said that the north end of the road has a guardrail across the end of it and is no use to the County; it is not maintained. He said there is no reason it cannot be vacated from Moe Road up to the guard rail, but leaving the right-of-way thirty feet from the center of Moe Road so that there is room enough to work on the street.

Barbara Evans moved and Ann Mary Dussault seconded the motion to grant the request to vacate "A portion of Bird Lane, located in NW 1/4 of Section 22, Township 12 North, Range 20 West from Highway 93 to Moe Road and as shown on Certificate of Survey No. 2575, P.M.M., Missoula County, Montana", as it is in the best interest of the County to do so. A 30-foot easement on the side of Moe Road will be reserved in order to accommodate County equipment. The motion carried on a vote of 2-0.

APRIL 22, 1992 (CONT.)DECISION ON: Petition to Vacate Additional Portion of Old Lolo Creek Road

Barbara Evans stated that before the Board could consider this issue, the Board must set aside the vacating of a piece of property on the west end of Old Lolo Creek Road described as "Unnamed Road", located in NW 1/4 of SE 1/4, Section 35, T12N, R21W from North-South Mid-Section Line of Section 35, T12N, R21W to a line extending Northeasterly from the NE corner of Lot 10, Loloview Acres, P.M.M., Missoula County, Montana. All property owners were not notified of the petition to vacate. According to law, the Board must set aside the vacating of that portion of road if the County fails to notify an affected property owner which makes the petition deficient.

Ann Mary Dussault moved and Barbara Evans seconded the motion to set aside Resolution 92-024 vacating that portion of Old Lolo Creek Road located in NW 1/4 of SE 1/4, Section 35, T12N, R21W from North-South Mid-Section Line of Section 35, T12N, R21W to a line extending Northeasterly from the NE corner of Lot 10, Loloview Acres, P.M.M., Missoula County, Montana. The motion carried on a vote of 2-0.

Barbara Evans stated the decision on the petition to vacate additional portion of Old Lolo Creek Road will be postponed until the 13th of May at the request of Mr. Van Ostrand, resident of the area.

HEARING: Request to Vacate Portion of FWE Schnitz Old Petition Road (in Petty Creek area)

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor of the Clerk and Recorder's Office, that a petition to vacate "FWE Schnitz Old Petition Road, located in Sections 1 & 2, T13N, R23W and further described in Road Book of the Missoula County Surveyor as: FWE SCHNITZ Petition 1902 Road Book B page 21 Commissioners Journal Book H pages 195, 209, 235, 268 a portion thereof. A portion of the road Petition of the Schnitz Petition dated 1902 that extends through the Johnson property described in Book 141 and page 909 & 910 as a portion of vacated County Road. Also all the road that is in the parcel that is within Book 242 Page 1687 located in the SW 1/4 of SW 1/4 of Section 1, T13N, R23W, P.M.M., Missoula County, Montana."

The reasons for this request are as follows: "This old county road hasn't been used or maintained in the past forty years approximately and represents no more than a narrow driveway. A well maintained county road parallels this old inactive road and provides excellent access to all the private properties in this valley." The following landowner was notified of the hearing: Judy Johnson.

The hearing was opened to public comment.

Judy Johnson, resident, stated that the road has been abandoned for approximately 40 years. The County road runs parallel with the old road. She says she can see no reason to leave it open.

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

Barbara Evans stated that the decision on this issue will be postponed for one week in order to view the proposed vacation by the County Surveyor and one of the County Commissioners.

The Public Meeting was recessed as the Board of County Commissioners and reconvened as the Planning and Zoning Commission. Present were Commissioners Ann Mary Dussault and Barbara Evans. Also present were members Horace Brown and Wendy Cromwell.

HEARING: Development Request ZD #4 (Livingston)

Zoe Mohesky, Office of Community Development, explained that was a review and request for approval to construct a single family residence with detached and attached garages on property described as Lot D-2, COS No. 1940, located in the East 1/2, Section 3, Township 12 North, Range 19 West, P.M.M., in Pattee Canyon.

Creation of this parcel through the certificate of survey occasional sale exemption process occurred on April 3, 1991. This approval was based on the condition that an easement is granted for said driveway. The easement would allow the drive to pass through the parcel to the east owned by Alison Livingston.

The Livingstons plan to construct a single family home with accessory structures and a driveway access as part of this request. The house would be a three story (one story being a daylight basement) of 2800 square feet. No trees will be removed in construction of the home, but some may be removed for the drainfield.

APRIL 22, 1992 (CONT.)

As part of their proposal, the Livingstons have requested a modification to the original driveway plan. They propose to locate the easement further to the north to reduce fill and follow the contour of the land. the driveway forms a semi-circle accessing the private road at 2 points.

On April 7, 1992, the Missoula Consolidated Planning Board recommended approval of this request.

The OCD staff has no recommendation on this request. However, staff would note that the parcel meets the minimum lot size and that the proposed use is permitted by Z.D. #4 regulations.

Ann Mary Dussault requested the hearing be postponed as there was no representation present for the Livingston's to answer questions.

Ann Mary Dussault moved and Wendy Cromwell seconded the motion to postpone the hearing until April 29, 1992. The motion carried on a unanimous vote.

The Planning and Zoning Commission recessed; the meeting reconvened as the Board of County Commissioners.

HEARING: Mullan Trail (Rezoning and Preliminary Plat)

Zoe Mohesky, Office of Community Development, explained that Gilbert Larson of Druyvestein, Johnson & Anderson, representing the owner, Dave Theisen, is requesting approval to rezone 73.7 acres of property located off Mullan Road in the North 1/2, Section 14, T13N, R20W, P.M.M. The two part zoning proposal calls for 61.0 acres to be rezoned from "C-RR1" (residential - 1 dwelling unit/acre) to "C-RR2" (Residential - 2 dwelling units/ acre) and "C-A1" (Open and Resource Lands - 1 dwelling unit/40 acres).

The second part of this request seeks approval for Mullan Trail preliminary subdivision plat. The subdivision would allow for 92 lots on 44 acres with 21.9 acres in common area.

Mullan Trail, proposed rezoning and subdivision is located on the north side of Mullan Road, approximately 2.25 miles west of Reserve Street. Its' border to the east is Mentzer's Greenhouse and some agricultural land; to the north by an old Milwaukee Railroad right-of-way grade which is now a private road named Hiawatha; to the west is Grant Creek and across Grant Creek is vacant land owned by the Deschamps. A subdivision is at this time in review by the Office of Community Development. South of the property is Dino Estates and the Emerald Addition. The development consists of 92 single family lots on 44.0 acres developed in three phases. Total acreage of the project is 73.7 acres. Common area is proposed for 21.9 acres to be maintained by the homeowner's association. Gross density on the full acreage is 1.27 units per acre. The average lot area is approximately 21,000 square feet. A community drainfield is proposed in 5.7 acres of the common area. This area is also sufficient for a replacement drainfield. Sewer line will be dry-laid from the septic tank to Mullan Road in the Mullan Trail right-of-way for potential future connection to a community treatment facility if one were to become available. Each lot will have individual wells. Grassy swales, or soil infiltration is proposed for stormwater collection.

Because the proposed density of this subdivision reaches 1.27 units per acre, it does not comply with the current zoning of C-RR1 which only allows 1 dwelling unit/acre. The applicants propose C-RR2 (2 dwelling units per acre) for 61 acres and C-A1 (open and resource) for 13 acres. C-RR2 would allow 122 units and the developer plans for 92 units on this portion. The 13 acres is part of the total common area proposed with the subdivision. It is to the east of and borders Grant Creek. This designation is meant to protect the natural creek resource. This rezoning proposal is consistent with the 1990 update of the Missoula Urban Comprehensive Plan. The Plan does designate the property as suburban residential and parks and open space. The suburban residential applies to the majority of the area proposed for the rezoning. The parks and open space is along the Grant Creek corridor. Two dwelling units per acre is recommended under that Suburban Residential category and Parks and Open Space in the Comprehensive Plan call for maintaining it for public values with development being unadvisable.

Some area residents did express concern over the increase in potential density with its effects on schools, ground water and sewage disposal.

She said the developer has gone above and beyond the required one-ninth parkland dedication requirement and has in fact, established 30% of the total acreage as common area. The developer has also taken care to locate these lands to preserve the riparian area and flood plain. Their design also connects the Mullan Trail Common areas to adjoining dedicated parkland in Dino Estates to the South and provides for greenway connections internally in the subdivision and adjoining properties. The

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common area to the west and portion of some of the allotted areas to the south do lie within the 100-year floodplain of Grant Creek. Many neighboring residents spoke at the public hearing before the Planning Board on the extent of flooding on this land. Most of this flooding occurs in the common area where no structures are proposed. However, information from residents on diking in the area and observations of flooding may be reason to require further study of flooding on the land.

The developers have done a great deal of work trying to provide interior linkages of pedestrian open-space corridors. Further, Mullan Trail developers have suggested that easements be incorporated into some of the common areas for future growth to address the broader concern and goal of road connection between subdivisions in the area. Road easements are proposed through the common area west off of Mullan Trail Road that would give access to the 13-acre common area. One easement would run west to Grant Creek to connect to Country Crest No. 3; a second easement could run north to connect to the private Hiawatha Road should this ever become a public road or access granted. Road improvements on these two easements would be triggered based on build-out of the two subdivisions by use of an RSID. This is recommended as condition of approval along with another condition that the developer place a statement on the face of the plat that acceptance of a deed in this subdivision constitutes consent of the owner to waive the right of protest to an RSID to upgrade these roads. She said that Ed Zuleger of the Health Department stated that they do have concerns about the seasonal high ground water level in the drainfield area. He says that more information will be needed to test the ground water location in that area.

One remaining concern is that some of the lots in the subdivision do not meet the minimum lot width of 100 feet required by new "C-RR2" zoning. these lots would either have to be redesigned or other methods of compliance sought prior to filing of the plat.

On April 7, 1992, the Missoula Consolidated Planning Board, concurred with the staff analysis. The board recommended:

1. That the rezoning request from "C-RR1" to a combination of "C-RR2" and "C-A1" as shown in Attachment B of the Staff Report be adopted.
2. That the preliminary plat for Mullan Trail be approved subject to 19 conditions as appear in the staff report.

The staff recommends that Mullan Road subdivision be found in the public interest subject to the following conditions:

1. Sanitary restrictions be lifted by State and Local health authorities.
2. Grading, drainage, erosion control and street plans shall be approved the County Surveyor's office.
3. The requirement that driveway approaches shall be paved for a length of at least 20' back from the road shall be provided for in the covenants or at the time of construction.
4. That Stagecoach Lane be changed to a name acceptable to the County Surveyor's Office.
5. All appropriate easements shall be shown on the face of the plat.
6. A well and fire hydrant shall be provided. Locations of the fire hydrant for fire protection purposes shall be approved by and meet the requirements of the Missoula Rural Fire Department.
7. Pavement at the entrance of the subdivision shall be widened for emergency vehicle access to a width and length acceptable to the County Surveyor and Rural Fire Department.
8. The developer shall work with the appropriate agencies to develop a noxious weed management plan for this subdivision.
9. That a "riparian restriction" zone be outlined on the face of the plat and labeled such with reference to the covenants that details the management guidelines for this zone. The riparian restriction zone shall be delineated and management guidelines developed in consultation with the Office of Community Development, Rural Planning, and Montana Department of Fish, Wildlife & Parks. There shall be no building within the mapped 100-year floodplain as suitable sites for home construction and accessory structures are available on each lot.

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10. The covenants shall include 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 obtain a copy of "Living With Wildlife" from the Office of Community Development or Rural Planning. Where feasible, a copy of "Living With Wildlife" should be given to lot purchasers.

11. That a berm be placed and landscaped along the length of the subdivision near Mullan Road.

12. That a 20 foot wide pedestrian access easement be located and shown on the plat between Lots 13 & 14, Block 2, to provide a continuum in open space linkages and pedestrian access should the adjoining property to the east ever be subdivided.

13. A waiver of the right to protest a sewer SID or RSID be filed on the plat, and other conditions which the City may require as a condition of connection.

Example language for the proposed deed restriction is:

"Acceptance of a deed to lots and assessable land depicted this plat shall constitute a waiver of the statutory right of protest to the creation of one or more city Special Improvement Districts or county Rural Special Improvement Districts for the purpose of financing the design and construction of a municipal sewer system to serve the subdivision. Acceptance of a deed to lots and assessable land depicted on this plat shall also constitute a waiver of the right to protest any annexation proceedings by the City of Missoula, said waiver is contingent upon the provision of sewer service by the City of Missoula.

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.

All documents of conveyance shall contain a reference to the covenants and waivers contained herein."

14. Install a community system designed to be easily connected to public sewer. The sewer collection system shall be dry laid in the public right-of-way.

15. Soil infiltration (commonly called grassy swales) shall be placed in the right-of-way on internal subdivision roads to collect stormwater runoff.

16. A future road easement shall be located on the plat within the common area between Lot 33, Block 2 and Lot 1, Block 3. This easement shall continue north to the property line. The easement width shall be 60 feet wide. Road improvements shall be completed contingent on receiving an easement across the adjacent property to the north. The road shall be triggered when 1) both Hiawatha Road becomes a public roadway or access is allowed and 2) when this subdivision is built-out 50%. The road improvement shall be accomplished through the creation of an RSID.

17. Beginning in the same location referred to in condition #16, an easement shall continue west to the property line which will connect to a future road easement in the proposed subdivision to the west. The road improvement shall be triggered when this subdivision and the one adjoining it to the west are both 50% built-out. This will necessitate the creation of an RSID to improve the road to County standards within the easement in both subdivisions. Location of the easements, road plans and improvements are subject to approval by the County Surveyor.

18. Contingent on approval of the rezoning to C-RR2 and C-A1, the developer shall comply with the minimum lot width of 100 feet required by the zoning is met. This will require re-designing of lots or seeking other methods for compliance.

19. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of Mullan Road and future road extensions within the common area and may be used in lieu of their signatures on an RSID petition."

The hearing was opened to public comment.

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Gilbert Larson, of Druyvestein, Johnson & Anderson, representing Dave Theisen the developer, commented on the quality of the subdivision. He said it is geared for the \$90-130,00 price range. He spoke about the protection of the riparian areas through an easement that would restrict any activity on the banks of Grant Creek; provide open space within the development, pedestrian circulation, and a sewage treatment plan for this development. The developers propose to widen the access roads to three lanes to ensure emergency access into and out of the subdivision.

He said there have been fears expressed by the residents that development would change the dike by adding to it and in some way changing the way Grant Creek flows that could impact those homeowners on the other side of the creek. Through the covenants, the developers would not only restrict, changing the creek in any way to not only the building of the development, but also the future owners through this easement. If there was a need to make a change, it would require the consent of Missoula Rural Planning and also those adjacent property owners that would be affected. This will insure that there won't be anything occurring with Grant Creek that will cause harm to anyone in the area.

The restrictive covenants within the subdivision will require paving of all driveways.

A grass infiltration swale is proposed for the sewer system. The developers feel it will help protect the groundwater in the area and provide for better treatment of storm water runoff before it is allowed to enter the groundwater. Also, the developers will do a study of the nutrients from the drainfield that is being proposed and determine any affects it will have on land outside of the subdivision. They will prepare a model of the nitrates as they enter the soil and the ground water. This will be prepared and presented to the Health Department for their review. The study will help to insure that the ground water in the area will be protected and will also show what affect the subdivision will have the ground water.

The developers have also been encouraged to meet with other developers in the area to try to plan the Mullan Road area and interlink some of the developments so they can be coordinated and connected. They have met with Gordon Sorenson who represents the development to the northeast of the property and Nick Kaufman of Sorenson & Co., who represents the land to the west. They have been able to reach some agreements and do some planning that will allow future connections and linking between the subdivisions. There has been concerns raised about these proposals; he said it is important to recognize that the two easements have some contingencies. The easement is contingent upon the development being built out to 50% and also upon the development to the west being built out to 50% before the one easement would be built. It would also be contingent upon the development to the northeast being developed. There is one other major contingency; Hiawatha Road will have to become either a public roadway and access be provided. He said they understand that the contingencies are currently not being met and there is a need for some future planning. He said this proposal for the easements would provide a means to build these roads through an RSID if these conditions are met.

Groundwater monitoring has not been done in the proposed building area. However, they have installed six new groundwater monitoring sites. The Health Department has agreed to monitor these sites throughout this year and compare them to last years' groundwater monitoring sites; even though this is a low water year, they can correlate and determine what a normal high water year would be.

He said there was also concern about the potential for flooding in the area. The developers have met with some of the residents that would be most affected by the development or changes that might take place. They found that in the last ten years there has been no flooding in the area. They recognize the last ten years have not experienced high water. He said they have to rely on studies that have been done in the area. In 1988 FEMA conducted a study of the hydrology of the Grant Creek area. Based on the amount of flow that should be coming down this creek and the topography of the area, they concluded where the 100-year floodplain would be. This information is on the plat. The developers have confirmed this information; the 100-year floodplain that is shown on the drawing does correspond with the study done by FEMA. They have also done some elevations to verify this information. He said what they have found in meeting with the neighbors, is that the banks of Grant Creek have come close to over-topping within a few inches of the top of the bank opposite the development. The bank of the creek on the Mullan Trail side is about a foot higher than the bank on the other side. The potential now is if Grant Creek were to rise, it would first flood those lands on the other side of the Emerald Addition. There was some concern that if the developers were to build up the dike on one side, the water would get deeper and deeper on the other side; however, the covenants would forbid changing the banks of Grant Creek. He said it is the developer's intent that in the third phase, the homes will be raised up above the existing ground. He said as they are building the roads, the top soils that are stripped from the roadway areas will be dumped on the Phase III area to elevate the homes 2 to 3 feet above the existing ground to provide extra flood protection. None of the homes are located in the 100-year floodplain; this will be an added protection.

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A general discussion ensued relative to Hiawatha Road. It was concluded that the road was once used as the old Milwaukee Railroad and is now used as a private roadway.

Peggy Hicks, resident, presented the Board with the following petition:

"This is an informal petition to inform the County Commissioners of our dissatisfaction with Mr. David Theisens' plans to build 92 homes on 44 acres in the Mullan Road area."

"We, the undersigned, are against the rezoning of the subdivision known as Mullan Trail from C-RR1 to C-RR2 and C-A1. The impact on Hellgate Elementary School, the ground water issue, well contamination, and septic disposal are not in the best interest of those in the Mullan Road and adjacent areas."

She expressed concerns about rezoning. She felt rezoning would disturb the rural setting they have chosen to live in.

Kirby Campbell, resident of the area for 17 years, said the developers measured for elevations of the property. They have not had excessive high water in the time he has lived in the area. He said it is not uncommon for the low side of his property to flood. The elevations of most of the homes are about three feet higher than standard base high water elevations. He said the homes in the Phase III area have a great chance of flooding because they are two- three feet low. He said the developers are talking about bringing the homes up on grade. However, if the dike flows over, there is a very good chance of flooding. He said the Doherty's ranch is now being platted along with Grant Creek. Water dispersion occurred when the ditches on this ranch were allowed to flood in past years; the dispersion will be gone once the ranch is subdivided into houses. They will keep the gates to the ditches closed. There will be more water in Grant Creek than there has ever been. He said the creek has silted and is no longer able to handle the water it used to be able to handle. He felt that the creek would eventually have to be rechanneled. One house has already had flooding problems in the basement even in these past low water years.

A general discussion ensued relative to the history of Grant Creek. The creek had been redirected by diking the perimeter of the creek; this made the creek flood in another place. About ten years ago, the residents dug a dike. The diking and changing of the creek has been done without the approval from anyone; it was not claimed by either the County or Flynn Ditch.

Kirby Campbell asked who will pay for the maintenance of the ditch--the County or the landowners. He felt that all of the landowners who would gain benefit from this action should pay for some of the cost.

Dick Holowinski, resident of Emerald Addition, asked a series of questions relative to the covenants for the subdivision. He voiced concerns about the issue of high water and what the developers proposed to do about this if this occurs.

Mike Flynn, resident, voiced concerns relative to high water in Grant Creek and Flynn ditch. He mentioned that previous owners of the property had grown wild rice in past years. He said that the flooding problems from the buildup of the silt of the lower end of Grant Creek has nothing to do with the Flynn Ditch, and has nothing to do with Grant Creek being rechanneled in this area. It does have to do with Grant Creek being rechanneled by Old Highway 10 West through the Doherty Ranch. He said Grant Creek will flood worse now that it has built up over the years. He said he would like to see provisions in the subdivision to protect people who are buying land and building houses.

Dave Robbins, resident, voiced concern over the drainfield as it is in a flooded area. He said Country Crest homes will have individual septic systems, each with one acre drainfields. He wanted to know how the proposed drainfield would accommodate 92 homes on just 5.7 acres.

Guss Bruns, resident, stated that he was concerned about the density spoiling the rural area. Contamination of existing wells was also a concern.

A discussion ensued relative to the allowable septic systems within the 100-year floodplain.

Barbara Evans explained that the Health Department will look at the floodplain/septic system issue very carefully. If there are any problems with the proposed system, they will not allow building to take place regardless of what the Board decides.

Kirby Campbell asked that the whole Grant Creek drainage be reviewed and studied before it is built upon.

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Mary Flynn, resident, voiced concerns about the flooding of Grant Creek.

Chuck Thomas, resident, asked about the acreage of the drainfield. He also asked about the one entrance and exit to the subdivision.

Ann Mary Dussault explained that there are very specific requirements by the Health Department that require a certain area of drainfield per the number of residents. They also require a backup system.

Barbara Evans stated that the developers of the Mullan Road area have been working together to link the subdivisions to provide access through the them; there will be more than one way in and out.

Mike Flynn stated that it was his understanding that the access roads weren't going to be built until the subdivisions are 50% completed. He wanted to know what the residents are to do in the meantime?

Barbara Evans stated the residents will use the entrances provided.
There being no further comment, the hearing was closed to public testimony.

Ann Mary Dussault asked Gilbert Larson to describe the septic system that will be in place to serve the area.

Gilbert Larson explained that the system the developers are proposing is a gravity collection system with a standard eight inch diameter gravity main buried deep in the streets and would connect all the homes by a standard gravity service line. The lines would carry the sewage to common septic tanks. The septic tanks will be located at three different points in the subdivision. They would be sized according to the State Health Department requirements. The three tanks would take the raw sewage and give it primary treatment by settling the solids and also refusing the amount of organics that are in the effluent. The effluent will then be collected in a common holding chamber that will drain into a large drainfield. The drainfield that is proposed will be a conventional drainfield with regular conventional pipes that would be set about two feet low. The sizing would be based on percolation rates and the criteria from the Health Department. Everything that would be done will be in accordance with the requirements from the Health Department. He said that only a small portion of the one acre lot is being used for drainfield. The proportions of the Country Crest one acre lots and drainfield to the proposed 5.7 acre drainfield aren't that different. They aren't different in that the Health Department requires so many feet of pipe for so many gallons of sewage. By combining them into a central area, the guidelines are able to be met. The community drainfield will be easier to hook up to a community sewer when it comes to the area. However, the drainfield is not dependent upon sewer coming to the area, it is fully able to function on its own. The sewer system will be monitored heavily by the Health Department. It will require a licensed operator to do inspections and to see that everything is functional.

Ann Mary Dussault asked about the elevations taken by the developers of the area.

Gilbert Larson explained that elevations were taken from both sides of the creek. They found that the Emerald Addition side was about eight inches to a foot lower than the Mullan Trail side of the creek. It will flood on the Emerald Addition side before it will flood on the Mullan Trail side. The developers recognize that there will be flooding in a high water year in the 100-year floodplain.

A discussion ensued relative to the issue of flooding. This issue would occur in Phase III of the subdivision.

Ann Mary Dussault stated she was concerned about the issue of the flooding. She would like the Board to be able to consult with Soil Conservation and other agencies involved at the time the third phase is filed. She said she wants to be able to discuss modifications of the third phase based on what is learned.

Gilbert Larson stated that the developers are required to reflect on the plat any adjustments to the 100-year floodplain made by FEMA or any other studies were conducted. He said that at this time, one neighbor who has been in the area for 17 years has not seen flooding on this side of the dike. There have been others that have been in the area for longer periods of time that have recollections of flooding, but not in the proposed building area. Based on the aforementioned, the developer feels there is no hazard to the future homeowners.

A general discussion ensued relative to the wording on page 13 of the Executive Summary Report by the Office of Community Development that refers to the native vegetation being left in the area. Knapweed, Leafy Spurge, etc., are not native plants and should be eradicated. Rural Planning's interpretation of native plants are the native grasses and those plants that were native to the area; it would not include weeds or noxious plants. This also allows for removal of dead material.

APRIL 22, 1992 (CONT.)

Barbara Evans asked about the wording of Condition No. 13 in the staff report. She suggested the wording be as follows: "A waiver of the right to protest a sewer SID or RSID be filed on the plat." The rest of the original sentence would be deleted for the reason that if the City does put sewer in this area, they would not allow hookup to the sewer without a waiver of annexation.

She said it does not make sense for the Office of Community Development to ask the Country Crest subdivision to increase from one unit per acre to two units per acre but suggest Mullan Trail subdivision stay at the density of one unit per acre. She said if the Mullan Road area is to remain consistent, the Mullan Trail subdivision should be allowed to rezone to a higher density.

John Mangiameli, Office of Community Development, stated it was the intent of OCD to allow flexibility for growth to accommodate further development in the Country Crest subdivision; they did not intend to encourage two houses per acre.

Barbara Evans asked the developers what their time frame is from the beginning to the end of the development.

Gilbert Larson stated it would be approximately eight years; this would be about one phase about every two years.

Relative to the zoning issue, he said there are other existing subdivisions in the area that are zoned even more dense than what they are asking for. There are many other subdivisions in the area that are also zoned C-RR2. He said the request is in compliance with the Missoula Comprehensive Plan and is recommended by the OCD staff for this area.

A discussion ensued relative to required minimum lot sizes. The developer recognized there may be a possibility that a lot or two may be lost in order to meet the requirement. The preliminary plat process requires the developer to provide the dimensions and bearings that are reasonable and close; but not to size bearing distance. At the time the developers start to create coordinants and determine actual bearings and distances, then they can determine whether all the lots meet the requirements.

Ann Mary Dussault asked what the purpose was of the C-A1 zoning?

Gilbert Larson stated the C-A1 is Open Space. This zoning will preserve the thirteen acres of open space so that in the future, no one can develop the acreage. The remainder of the tract would be C-RR2 or two units per acre.

A discussion ensued relative to the zoning change to C-A1. It was suggested that instead of changing the zoning, the open space could be put into a conservation easement.

Barb Martens, Office of Community Development, stated that the developers have this area labeled common area which is meeting their parkland dedication requirement for subdivisions. When parkland or common area is dedicated in perpetuity, no one can come back in and subdivide in the future.

Ann Mary Dussault said she is still concerned that information be gathered relevant to Phase III and the activities of Grant Creek even if the rezoning and plat are approved today. She said Gilbert Larson stated that if information was found it would alter the floodplain line and would be considered with Phase III. She asked if other information regarding the creek and its' flooding patterns is found, regardless of whether the floodplain line is amended or not, could the information be considered when Phase III is looked at?

Mike Schestedt, Deputy County Attorney, stated that an addition could be made that preliminary approval to Phase III be subject to a condition upon the receipt of additional hydrological data. This can be added in the form of a condition.

Ann Mary Dussault said she was interested in consultation with the Soil Conservation Service regarding the creek and it's activity.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the rezoning request for Mullan Trails from C-RR1 to a combination of C-RR2 and C-A1 as shown in the staff report, be adopted. The motion carried on a vote of 2-0.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the Preliminary Plat for Mullan Trails based on the Findings of Fact in the staff report and subject to the following conditions:

APRIL 22, 1992 (CONT.)

1. Sanitary restrictions be lifted by State and Local health authorities.
2. Grading, drainage, erosion control and street plans shall be approved the County Surveyor's office.
3. The requirement that driveway approaches shall be paved for a length of at least 20' back from the road shall be provided for in the covenants or at the time of construction.
4. That Stagecoach Lane be changed to a name acceptable to the County Surveyor's Office.
5. All appropriate easements shall be shown on the face of the plat.
6. A well and fire hydrant shall be provided. Locations of the fire hydrant for fire protection purposes shall be approved by and meet the requirements of the Missoula Rural Fire Department.
7. Pavement at the entrance of the subdivision shall be widened for emergency vehicle access to a width and length acceptable to the County Surveyor and Rural Fire Department.
8. The developer shall work with the appropriate agencies to develop a noxious weed management plan for this subdivision.
9. That a "riparian restriction" zone be outlined on the face of the plat and labeled such with reference to the covenants that details the management guidelines for this zone. The riparian restriction zone shall be delineated and management guidelines developed in consultation with the Office of Community Development, Rural Planning, and Montana Department of Fish, Wildlife & Parks. There shall be no building within the mapped 100-year floodplain as suitable sites for home construction and accessory structures are available on each lot.
10. The covenants shall include 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 obtain a copy of "Living With Wildlife" from the Office of Community Development or Rural Planning. Where feasible, a copy of "Living With Wildlife" should be given to lot purchasers.
11. That a berm be placed and landscaped along the length of the subdivision near Mullan Road.
12. That a 20 foot wide pedestrian access easement be located and shown on the plat between Lots 13 & 14, Block 2, to provide a continuum in open space linkages and pedestrian access should the adjoining property to the east ever be subdivided.
13. A waiver of the right to protest a sewer SID or RSID be filed on the plat, in a form to be approved by the County Attorney's Office.
14. Install a community system designed to be easily connected to public sewer. The sewer collection system shall be dry laid in the public right-of-way.
15. Soil infiltration (commonly called grassy swales) shall be placed in the right-of-way on internal subdivision roads to collect stormwater runoff.
16. A future road easement shall be located on the plat within the common area between Lot 33, Block 2 and Lot 1, Block 3. This easement shall continue north to the property line. The easement width shall be 60 feet wide. Road improvements shall be completed contingent on receiving an easement across the adjacent property to the north. The road shall be triggered when 1) both Hiawatha Road becomes a public roadway or access is allowed and 2) when this subdivision is built-out 50%. The road improvement shall be accomplished through the creation of an RSID.
17. Beginning in the same location referred to in condition #16, an easement shall continue west to the property line which will connect to a future road easement in the proposed subdivision to the west. The road improvement shall be triggered when this subdivision and the one adjoining it to the west are both 50% built-out. This will necessitate the creation of an RSID to improve the road to County standards within the easement in both subdivisions. Location of the easements, road plans and improvements are subject to approval by the County Surveyor.
18. Contingent on approval of the rezoning to C-RR2 and C-A1, the developer shall comply with the minimum lot width of 100 feet required by the zoning is met. This will require re-designing of lots or seeking other methods for compliance.

APRIL 22, 1992 (CONT.)

19. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of Mullan Road and future road extensions within the common area and may be used in lieu of their signatures on an RSID petition."

20. Phase III of preliminary plat approval is subject to revision based on a receipt of additional hydrologic information with regard to Grant Creek and Grant Creek drainage as a whole.

The motion carried on a vote of 2-0.

Ann Mary Dussault stated relative to the submitted petitions that it is important to note that the septic system that is proposed for the subdivision is actually far more beneficial than individual septic systems that would occur on single acres. Community septic systems are very good and are more highly monitored than individual septic systems.

She also said that Hellgate Elementary School Officials have indicated in their comments that they have the capacity to absorb this development.

HEARING: Eagle's Nest (Preliminary Plat)

John Mangiameli, Office of Community Development, explained that Eagle's Nest Estates is a request by Dick Ainsworth of PCI, for Eagle's Nest Estates, Inc., to subdivide 11.45 acres of land into nine single family lots. The property described is located in the SE 1/4, NE 1/4 of Section 22, and the W 1/2, W 1/2, Section 23, T13N, R20W, and lies at the end of Council Way on Council Hill. The subdivision lots are on 9.43 acres.

The Missoula Consolidated Planning Board has not yet acted on this proposed subdivision.

The Office of Community Development recommends that Eagle's Nest Estates Preliminary Plat be approved, subject to the findings of fact and the following conditions:

1. State and Local sanitary restrictions be lifted.
2. The applicant shall develop a management plan for the subdivision prior to the filing of the Final Plat. The management plan should consider issues including but not limited to wildland fire protection, and protection and enhancement of vegetation, wildlife habitat and fisheries. It should contain the following: a statement of intent, goals and objectives, a strategy for execution, and monitoring and evaluation criteria. This plan shall be reviewed by Rural Planning, the Office of Community Development, Rural Fire, Fish, Wildlife and Parks and approved by the Board of County Commissioners.
3. The final plat shall show setback lines as shown on the Preliminary Plat.
4. The following statement shall appear on the face of the final plat: Prior to the footing inspection for Lots 7, 8, and 9, a soils engineer shall inspect the soils for suitability to construct a home. Any site specific recommendations shall be followed.
5. Slopes in excess of 25% shall be indicated on the Final Plat.
6. The following design parameters shall be incorporated into the covenants:
 - 1) Grading shall produce slopes that generally conform with the existing landform.
 - 2) Cut and fill for driveways and parking areas are not to exceed 3:1 side slopes.
 - 3) An architectural control committee shall be established and shall, as one of its duties, ensure compliance with the above condition.
7. Final road, grading, and drainage plans shall be reviewed and approved by the County Surveyor.
8. All easements shall be shown on the face of the plat.

APRIL 22, 1992 (CONT.)

9. Approach permits shall be applied for and granted prior to home construction. All driveways shall be paved.
10. The plat shall show the location of the 100-year Floodplain line.
11. The covenants shall include 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 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, 721-5700. Where feasible, a copy of "Living with Wildlife" should be given to lot purchasers.
12. 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 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.
13. The developer shall file Property-Owner's Articles of Incorporation and By-laws, with proof of filing with the Secretary of State.
14. Utilities shall be placed underground.

The hearing was opened to public testimony.

Dick Ainsworth, Professional Consultants, Inc., representing the developer, stated that they are in agreement with the conditions. A main concern of the residents was the steep slope which is home to much wildlife. It is noted on the preliminary plat as the common area. This will be protected by putting restrictions on it. A management plan will also be put into use for this area. The developer has suggested placing a conservation easement on the entire steep hill slope as well as the hill to the north which was lotted as part of Council Hill Addition.

He said another concern of the residents was height restrictions on the houses that will be built. They are continuing negotiations with the neighbors in an effort to resolve the conflict.

Howard Newman, Hydrologist, stated that the developers plan to bring water in from off-site and he feels that the sewer will not affect any of the neighboring wells.

The water is being brought in from a lot to the north of the property that the developer has purchased. This lot has the capacity for a high-yield well that will not affect any of the neighbors.

Barbara Evans asked if the surrounding neighbors could hook up to this water system.

Dick Ainsworth said that the State Board of Health rules says that if there are nine or fewer lots on a water system it is a multi-family water system. If there is more than nine lots it is a community water system. The requirements for the two types of systems are substantially different. They plan only to serve the nine lots as proposed. However, the developers are not opposed to the residents hooking up to the water system; they have no objection to looking at the costs.

Wally Congdon, representing the residents of the area, stated the developers and the residents have negotiated and made several concessions such as the no improvement easement around the whole parcel of property including the neighbor's property. The water system has occurred, he feels, because of the commentary from the residents. Several residents have expressed an interest in hooking up to the water system. One resident expressed a willingness to give the developer an easement adjacent to this property in order to tap into the water.

There has been much discussion on the fragility of the face of Council Hill. He said there is a consensus that everyone would like to do something to protect the hillside; not just the developers property, but the whole area.

Bulk and height of the homes are issues that need to be addressed. The residents talked with the developer and conceded to less height of about 24-26 feet from the existing contour. The residents expressed concern however, about fill being put in so that it would raise the height of the homes four feet above the existing contour; then another few feet for daylight basements, etc. The homes would then be set potentially over 40 feet in height. The developer felt that it would only be about 38-39 feet, but the residents feel this is a substantial distance to be concerned about.

APRIL 22, 1992 (CONT.)

Larry Hart, resident, expressed concern relative to the common area and the protection of the hillside. He spoke about the wildlife he has witnessed on this hillside and feels there would be a great impact to the wildlife and the slope itself if people are allowed to access this area. There should be no trespassing; it is not suitable for human habitation.

Pamela Fraiser, resident, was concerned that the Board protect the hillside and the diversity of life and be sensitive to the water issues, the riparian area, and road density. She objected to the developers use of the name "Eagles Nest". She feels that because of the density of the area, no raptors will visit the site.

Sherry Stickney, resident, objected to the proposed subdivision. She felt that the developers proposal is not clear. She spoke in opposition of the height of the homes and the view of the homes and their lights from around Missoula. She asked that a cultural analysis of the area be conducted. She also addressed the issue of the groundwater system. There is limited groundwater in the area; the residents get very little water from their wells. She asked the Commissioners to extend the review period in order to allow for further environmental analysis on the issues and concerns.

Dixie Hart, resident of the Council Hill Subdivision, voiced concerns about the wildlife in the area, traffic issues, and water. She felt there is a need for future planning for the steep slope area. She presented a postcard that showed an aerial view of the area and how visible Council Way is from all of Missoula. She was concerned that development happen in a careful way so as not to disturb the look of the area. She said it is important to plan ahead and set aside areas that are unique. Visual impact should be kept to a minimum.

Jim Valeo, resident, said he doesn't feel that the plat reflects or responds to the uniqueness of the area. From an aerial photo he pointed out the area in question. He spoke about density; the property up to Council Way is sparsely populated with approximately 2.5 acre parcels. However, the property in question is zoned one residence per acre. He feels this does not fit into the rest of the area; it is too densely populated. He wanted the Board to take the variations of density into consideration for their decision.

Steve Adler, resident, expressed concerns relative to the density, siting, bulk and massing of the development. He felt the developers were density driven rather than having concern for the area itself; Lot 9 is a good example of this. There isn't enough room for building space, septic or septic extension all on the one lot; the septic has to go across the street to an easement on Lot 1. The buildings should be restricted away from the bluff. He said it was necessary to work out height and bulk requirements and that these need to be legally binding. He felt solutions to the issue could be 1) providing an easement along the bluff that would provide access to the bluff; 2) combine Lots 8 and 9; 3) Lots 8 and 9 would be used as a recreation area.

Zane Sullivan, Attorney representing the developer, prepared the covenants for the proposed subdivision. He said the developer is trying very hard to accommodate the needs of the community and the needs of the people who use this area for recreation. The developer is doing this by developing nine homes; the Comp Plan calls for two units per acre. There is no request for zoning modification; they are going below what the zoning allows.

Water will be accommodated by an off-site well. The developer has made repeated changes in the covenants to accommodate the request by the OCD staff to protect the hillside. They are willing and understand the importance of the hillside. Another possibility is a conservation easement or a management plan; this will be written into the covenants and cannot be changed without the County's approval.

He urged the Board not to loose sight of where the developer is at. The developer purchased the property under the existing zoning which provides for a 30 foot height provision for the structures. He urged caution that the developers could only go so far to accommodate the needs of other residents of the area. If they are required to limit the sight from the structures and the number of structures, then it would be appropriate to put in more stringent zoning and regulations. He said they need to set and establish a criteria that tells the person buying the property the criteria that they will have to live with. He said he questioned the appropriateness of coming in now after the property has been purchased with the purchaser relying upon a thirty foot restriction and say it will be changed in the middle of all of this. He said future planning may be appropriate; he is arguing the timing of that planning. He asked that the Board approve the subdivision subject to the criteria and conditions the OCD staff has recommended.

APRIL 22, 1992 (CONT.)

Theresa Brush, resident, voiced concerns about density and their individual septic systems, restrictions on structure height and the placement of homes, and trespassing along the 10-foot easement to the hillside; access should not abut privately owned land. She said the property is fragile and will be permanently damaged by the extent of the development of this subdivision.

Mary Ann Holcomb, resident of Council Way, expressed concern relative to the animals and the riparian area. She suggested a study be conducted by the Department of Wildlife, Fish & Parks. Another concern was the lighting that the subdivision would give off.

Wally Congdon said concerns that should be dealt with include density, height and bulk of the buildings. The residents feel the height is inappropriate for the area. He said there a number of criteria provided by the OCD staff regarding effects on wildlife and wildlife habitat and effects on the natural environment. He said there are some extra conditions that should be attached to this subdivision. He suggested the following:

- 1) A total evaluation of the archeological site be included in the report and the subdivision be sensitive to them and incorporate those concerns.
 - 2) Height and bulk restrictions for the property reflect existing contours and elevations of the structures be incorporated on the plat and in the final analysis of the project.
 - 3) A management plan for both the common area and the subdivision be incorporated and approved similar to what was required in Section No. 2 which is a management plan for the subdivision.
 - 4) A setback be required so that visual quality improves.
- He stated that based on the testimony from the residents, it was apparent that the area is unique. He asked the Board to incorporate the suggestions into their decision.

Dick Ainsworth stated that he was concerned that anyone overreact based on the testimony of the opponents. He said the rules state there is existing height restrictions of 30 feet. The Comp Plan shows the bulk of the property at two to the acre; this Comp Plan was updated in 1990. He said the County saw fit that this specific unique property could be developed up to two units per acre. However, the developer is proposing two units less than one unit per acre. He said the density is higher than neighboring areas, but it is far less than what the Comp Plan allows. The developers reputation is such that he will build houses that will be appropriate for the area. He said there has been exaggeration relative to what kind of houses will be built in the area. He asked the Board to approve the subdivision as submitted.

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

Barbara Evans stated that due to time constraints and the lateness of the hour, the decision on this issue will be postponed until the April 30th Public Meeting.

Ann Mary Dussault said that there are a number of questions she would like answered at next weeks' meeting.

Barbara Evans stated that her feelings on this matter are that the rules allow what the developer is requesting. The Board cannot keep the developer from developing according to the rules. However, there are some criteria that the Board can and in good conscience, ask them to work with the residents on this matter.

She asked the staff and Dick Ainsworth about the parkland requirement in the staff report. She doesn't feel that the common area is parkland because it is not useable by human beings; it therefore does not constitute parkland.

HEARING: O'Brien Creek Meadow (Preliminary Plat)

Due to time constraints, the hearing was postponed until April 29, 1992.

There being no further business to come before the Board, the meeting was recessed at 4:55 p.m.

* * * * *

APRIL 23, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. In the evening, Commissioner Evans attended a meeting held at Cold Springs School regarding the Miller Creek Road.

DAILY ADMINISTRATIVE MEETING

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

Resolution No. 92-029

The Board of County Commissioners signed Resolution No. 92-029, a Resolution of Intent to Rezone from "C-RR1" (Residential District) to "C-RR2" (Residential District) and "C-A1" (Open and Resource District) property located off of Mullan Road (Mullan Trail) in the North 1/2 of Section 14, T. 13 N., R. 20 W., PMM.

Noxious Weed Trust Fund Project Agreements

The Board of County Commissioners signed Noxious Weed Trust Fund Project Grant Agreements (5) between the Missoula County Weed District and the Montana Department of Agriculture for the purpose of containing and reducing noxious weed infestations, as per the mutual covenants and stipulations set forth, for the period through June 30, 1993, in the following Control Project areas in Missoula County:

- 1) the Upper Ninemile Weed Control Project (Number MDA 92-31), with 837 acres targeted for treatment in the 8,482 acres of the project area, for a maximum payment amount of \$8,000;
- 2) the Bitterroot Valley Weed Management Area (Number MDA 92-35), with 1,004 acres targeted for treatment in the 19,200 acres of the project area, for a maximum payment amount of \$10,000;
- 3) the Grant Creek West Weed Control Project (Number MDA 92-33), with 930 acres targeted for treatment in the 12,173 acres of the project area, for a maximum payment amount of \$10,000;
- 4) the Clinton Noxious Weed Control Area (Number MDA 92-34), with 811 acres targeted for treatment in the 3,064 acres of the project area, for a maximum payment amount of \$10,000; and
- 5) the Frenchtown Weed Management Area (Number MDA 92-32), with 994 acres targeted for treatment in the 8,546 acres of the project area, for a maximum payment amount of \$10,000.

The Agreements were returned to Jerry Marks in the Extension Office for further handling.

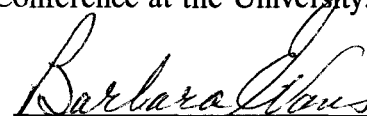
APRIL 24, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. At noon, Commissioner Evans gave a welcome at the HOBY (Hugh O'Brien Leadership) Conference being held at the University of Montana.

APRIL 25, 1992

In the forenoon on Saturday, Commissioner Dussault gave a presentation at the HOBY Days Conference at the University of Montana; and later participated in a panel and workshop regarding Fire Protection Programs in the 1990's at a "Power of Politics" Symposium held at the University of Montana. At noon, Commissioner Evans participated in the HOBY Conference at the University.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

APRIL 27, 1992

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioners Evans and Stevens attended the RSVP Annual Banquet held at the Village Red Lion.

DAILY ADMINISTRATIVE MEETING

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

License Agreement

The Board of County Commissioners signed a License Agreement, dated April 13, 1992, between the Resurrection Cemetery Association, Helena, Montana and the Missoula County General Services Department acting as guarantor and representative for the Down Home Project, whereby the RCA shall grant the use of a 100' x 100' tract of land located in Block 1, School Addition, Five Acre Tracts, Missoula County, Montana, to the Missoula County General Services Department/Down Home Project Community Gardens, for a program intended to promote and facilitate vegetable gardening by people who have no other opportunity to do so, as per the items set forth, from May 1, 1992, until October 30, 1992.

Lease Agreement

The Board of County Commissioners signed a Lease Agreement between Missoula County and the Frenchtown Rural Fire District, whereby the County agrees to lease a portion of property in Ponda Rosa Acres (shown on the Exhibit attached to the Lease Agreement) for the construction and maintenance of a fire station and normal District activities, as per the terms set forth, for a rental payment of \$1.00 per year, for a term of ten years and may be renewed by the District for an additional term of ten years.

Interlocal Agreement

The Board of County Commissioners signed an Interlocal Agreement between the City of Missoula and the County of Missoula to Cooperate in the Extension of City Sewer Service to Portions of the Lower Miller Creek Area of Missoula County, as per the items set forth, with the total cost for the Lower Miller Creek Sanitary Sewer Project estimated to be \$1,098,000.00. The Agreement was returned to John DeVore, Administrative Officer, for further signatures and handling.

Operating and Financial Plan

Chairman Evans signed an Operating and Financial Plan between Missoula County and the U.S. Forest Service for reimbursable services requested by the Forest Service from the Missoula County Sheriff's Department for the dates and places specified in the Agreement, as per the terms and payment schedule set forth, for the period beginning April 24, 1992, and ending September 30, 1992, and becomes a part of the original Agreement between the parties dated October of 1983. The Plan was returned to the Sheriff's Department for further signatures and handling.

Other items included:

The Commissioners appointed Ed Redhammer as an Alternate Member of the Missoula County Airport Authority.

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

* * * * *

APRIL 28, 1992

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

Audit List

Commissioners Stevens and Dussault signed the Audit List dated 4/27/92, pages 5-28, with a grand total of \$133,584.11. The Audit List was returned to the Accounting Department.

APRIL 28, 1992 (CONT.)

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond naming the University of Montana as principal for warrant #49070, dated February 12, 1992, in the amount of \$5,022.32 now unable to be found.

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 April 1, 1992, between Missoula County and P. O'Connell Const. Co. for completion of sewer improvements on Kemp Street and the alley between Kemp Street and Johnson Street (RSID No. 443), as per the terms set forth, for a total amount of \$30,887.00. The Contract was returned to Jesse Sattley in General Services for further handling.

Resolution No. 92-030

The Board of County Commissioners signed Resolution No. 92-030, a Resolution approving the Application of Tricon Timber, Inc., for Tax Incentives under Resolution No. 87-080, for new and expanding industry, based on improvements in excess of \$1,500,000 installed during 1991 and described on the attachment to the Resolution on file in the Recording Office.

Plat

The Board of County Commissioners signed the Plat for Country Crest, a subdivision of Missoula County located in the SW 1/4 of the SW 1/4 of Sec. 11 & the NW 1/4, NW 1/4 of Sec. 14, T. 13 N., R. 20 W., PMM, with the owner of record being Betty H. Deschamps, and contains a total area of 8.41 acres.

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

Site Inspection

In the afternoon, Commissioner Dussault accompanied County Surveyor Horace Brown on a site inspection for the request to vacate a portion of the FWE Schnitz Old Petition Road in the Petty Creek Area.

* * * * *

APRIL 29, 1992

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:

Modification of Agreement

Chairman Evans 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 provision of the WIC Program to Missoula County residents, amending the last three sentences of Section IV(4) and Attachment A-2 as shown on the Agreement. The Modification was forwarded to DHES in Helena.

Contract

The Board of County Commissioners signed a Contract between Missoula County and Quality Landscaping and Lawn Care for the purpose of grounds maintenance for the County Office Building, the Print Shop, and the Extension Office, as per the terms set forth, for the period from July 1, 1992 to October 1, 1995, for a total payment in the amount of \$19,400.00.

APRIL 29, 1992 (CONT.)

Barbara Evans asked how far down the slope on the face of the hillside the property line is.

Dick Ainsworth said the property line is 20 feet down the face of the hill and is subject to the same conservation easement the common area is.

Janet Stevens moved and Ann Mary Dussault seconded the motion to amend Condition No. 2 to read, "The applicant shall develop a management plan for the subdivision prior to the filing of the Final Plat. The management plan should consider issues including, but not limited to wildland fire protection, and protection and enhancement of vegetation, wildlife habitat and fisheries. It should contain the following: a statement of intent, goals and objectives, a strategy for execution, and monitoring and evaluation criteria. This plan shall be reviewed by Rural Planning, the Office of Community Development, Rural Fire, Fish, Wildlife and Parks and approved by the Board of County Commissioners and conservation easement will meet all requirements of this condition. The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Janet Stevens seconded the motion to add as part of Condition No. 2, "Furthermore, the ten-foot wide access easement along the north side of Lot 9 is intended to be used for management of this section." The motion carried on a vote of 3-0.

It was discussed that the 25 foot setback no build/no improvement easement along the back of the lots included all lots in the subdivision.

Ann Mary Dussault moved that Condition No. 3 be amended to read, "The Final Plat shall show setback lines as shown on the Preliminary Plat with the exception of Lots 7, 8 and 9 where there shall be a 25 foot building setback from the edge of the steep hillside." The motion failed for lack of a second.

Janet Stevens stated she would second the motion if the building setback was amended to ten feet to allow preservation of that edge and would also allow room for building.

Ann Mary Dussault stated she could not accept the amendment; 25 feet has been the standard used in other subdivisions.

Janet Stevens moved and Ann Mary Dussault seconded the motion to amend Condition No. 6.3 to say, "An architectural control committee shall be established and shall, as one of its duties, ensure compliance with Condition No. 6.1." The motion carried on a vote of 3-0.

Janet Stevens moved and Ann Mary Dussault seconded the motion to amend Condition No. 7 to read, "Final road, grading, and drainage plans shall be reviewed and approved by the County Surveyor. Condition 6.2 shall also be approved by the County Surveyor. The motion carried on a vote of 3-0.

Ann Mary Dussault moved that Condition No. 3 be amended to read, "The Final Plat shall show setback lines as shown on the Preliminary Plat with the exceptions of Lots 7, 8 and 9 where there shall be a 15 foot setback from the edge of the steep hillside." There being no second, the motion failed.

Janet Stevens moved and Barbara Evans seconded the motion to approve Eagles Nest Estates Preliminary Plat subject to the Findings of Fact and the amended conditions as follows:

1. State and Local sanitary restrictions be lifted.

2. The applicant shall develop a management plan for the subdivision prior to the filing of the Final Plat. The management plan should consider issues including but not limited to wildland fire protection, and protection and enhancement of vegetation, wildlife habitat and fisheries. It should contain the following: a statement of intent, goals and objectives, a strategy for execution, and monitoring and evaluation criteria. This plan shall be reviewed by Rural Planning, the Office of Community Development, Rural Fire, Fish, Wildlife and Parks and approved by the Board of County Commissioners and conservation easement will meet all requirements of this condition. Furthermore, the ten-foot wide access easement along the north side of Lot 9 is intended to be used for management of this section.

3. The final plat shall show setback lines as shown on the Preliminary Plat.

4. The following statement shall appear on the face of the final plat: Prior to the footing inspection for Lots 7, 8, and 9, a soils engineer shall inspect the soils for suitability to construct a home. Any site specific recommendations shall be followed.

5. Slopes in excess of 25% shall be indicted on the Final Plat.

APRIL 29, 1992 (CONT.)

Ann Mary Dussault said she watched the excavation process on McKays by the river. There was a great deal of impact to the bank and the river.

Dick Ainsworth said the developer is aware of the sensitivity of the area and will be careful so as not to disturb the area.

Ann Mary Dussault stated she does not want this slope to be a public easement; people do not belong on the ridge.

She asked about the ten foot wide private access easement along the north side of Lot 9. The common area is a natural resource protection area. She asked Dick Ainsworth if he saw any problem eliminating the easement?

Dick Ainsworth stated that there is a need to have access to the area. A management plan will be in place and at some point in time someone will have to have access. This area could be restricted for management purposes only. Pedestrian traffic is not expected on this hillside.

The easement exists on the face of the plat; the wording could be changed to reflect that the easement is for private use only and restricted to management of the area.

A general discussion ensued relative to Condition No. 6 which states, '...an architectural control committee shall be established'. Should the Surveyors Office approve this condition since they are the experts in this field? It was agreed that the Surveyor's Office should approve the condition.

John Mangiameli explained that an Architectural Control Committee was going to be established with the developer sitting on the Board. He has a good understanding of the issues and what the Office of Community Development wanted. The development that should occur should be conducive to the topography and be aware of the sensitivity of the site. He said it would seem that since the developer is the owner and the builder and is going to be on the Architectural Control Committee, he would be the one closest to the project and could ensure that these issues were dealt with properly.

Barbara Evans stated that she had concerns last week about donating common area as parkland when it is not desirable for human to use. She said that she has since changed her attitude on this issue because of the testimony of the residents. They stated how vital this area is for the bedding grounds and use by the wildlife. Therefore, because it is so vital to the residents, she feels the common area qualifies as such because it will provide the residents with what they want the area to be.

Janet Stevens asked what the impact would be if there was a 25 foot setback on Lots 7, 8 and 9 for building purposes?

Dick Ainsworth stated that the owners of the lots may not choose to crowd the setback. He said it would be potentially detrimental to Lot 9. On the other two lots there is more flexibility where the owners can build. He said it would make it more difficult to design houses for these lots.

Gene Mostad, developer of Eagle Estates, stated that he had a problem with the 25 foot setback from the crest of the hill. He said the buyers will want to be able to see the river from the crest of the hill.

He stated that during construction, the foundations will be no closer than ten feet from the crest of the hill. During excavation, a common "overdig" is three feet; this still leaves seven feet. He said he would ensure that the dirt will not be cast to the outside. There is no problem to start on the back side and dig out towards the front when digging the foundation. He said the equipment can be taken around the back of the house and backfill it so that the dirt will not be pushed towards the crest of the hill. He stated he has the same concern for the hillside and does not want to disturb it. He said the same methods are used when they build around trees.

A discussion ensued relative to the 25 foot setback and whether a 15 foot setback would be sufficient to keep Lot 9 a buildable lot. The desirability of the lots would be decreased; but it would still be buildable.

Janet Stevens asked how much room is actually needed to provide enough space for a house with septic, etc.?

Dick Ainsworth stated it depended on the size of the houses. Probably two story homes will be built on Lots 8 and 9.

APRIL 29, 1992 (CONT.)

Dick Ainsworth, Professional Consultants, Inc., commented relative to Condition No. 2 in the staff report which talks about a management plan. He stated that Amy O'Herren of Rural Planning had given out information on a conservation easement being placed on the hillside. He wondered if Condition No. 2 should be worded differently if there is a conservation easement instead of a management plan. He felt the conservation easement would better protect the hillside.

John Mangiameli stated that the condition could be worded to say pending the completion of the negotiation process and the conservation easement, 'the document would then satisfy this condition or requirement.'

Janet Stevens stated that Amy O'Herren had told the Board that she did not hear from any residents in the area concerning her letter.

Dick Ainsworth said that Amy O'Herren had sent the letter to him and called and said that she was anticipating having some sort of a meeting with the residents. He said he feels that is something that needs to be done. He said the developers are hesitant to put a conservation easement on just the three acre common area. Amy O'Herren felt it was a good idea to put it on the whole hill.

Barbara Evans asked the legal staff to voice their opinions as to the conservation easement and if that meets the requirements of Condition No. 2 from a legal standpoint.

Marnie McClain, Deputy County Attorney, stated she didn't feel it would be a problem.

Janet Stevens stated that it was her understanding that the developer has some conceptual drawings of houses or some perceptions of what the houses might look like.

Dick Ainsworth stated that the developer had an architect do a couple of cross-sections through lots 1 and 2 that would show what a two-story home would look like.

A general discussion ensued relative to the concern expressed over the appearance of the homes.

Ann Mary Dussault asked what the maximum height of the wall of the home at the crest of the hill would be?

Dick Ainsworth stated that the current zoning is 30 feet maximum height for the building. Technically, the zoning can be interpreted as half of the roof height added onto the wall height. However, the developer interprets the requirement to mean from the ground or natural contour of the land on the street side of the house, to the highest point of the roof. The height of the home would then be 27 or 28 feet.

Ann Mary Dussault asked about Lots 7, 8 and 9 which border the crest of the hill. How far is the setback line from the edge of the hill?

Dick Ainsworth stated that the developers were concerned about the visibility of the homes from the river. By use of a drawing, he showed how the developers figured the 25 foot setback. The lot line was actually over the crest of the hill. However, the conservation easement would apply to everything over the crest of the hill; the space will be unusable to the owners.

Ann Mary Dussault said that her concern was that the crest of the hill is of significant value for wildlife and waterfowl. It would seem logical that protecting the edge of the crest makes sense. She wondered what the effect would be if the setback was moved back a few feet, other than the fact that someone might not be able to sit at a first story window and be able to see the river. She asked what the impact would be if the 25 foot setback, for the purpose of protecting the ridge, would be on lot 9--would it eliminate the lot?

Dick Ainsworth stated that it depended on the house that would be built. It wouldn't necessarily make Lot 9 a non-buildable lot.

Ann Mary Dussault said that the five foot setback is not enough protection for the hillside from excavating or building and encroachment.

Dick Ainsworth stated that any excavation would actually be back ten feet as the deck would probably take up five feet of the ten. The foundation for the deck would not be excavated.

APRIL 29, 1992 (CONT.)Notice of Hearing

Chairman Evans signed a Notice of Hearing for Idaho Timber Corporation's Application for tax incentives for new and expanding industry under Resolution No. 91-101, setting the hearing date for May 20, 1992, at 1:30 p.m.

Resolution No. 92-031

The Board of County Commissioners signed Resolution No. 92-031, a resolution accepting real property by an easement from William R. Maclay, Sr. & M. Josephine Maclay, Co-Trustees and Fleta Elizabeth Kenna, Trustee, for public road and all other public purposes (River Pines Road), located in a portion of Section 27, T. 13 N., R. 20 W., PMM Missoula County, and being shown as the south 30.00 feet of Tract 4 of Certificate of Survey No. 4047.

Resolution No. 92-032

The Board of County Commissioners signed Resolution No. 92-032, a resolution accepting real property by an easement from William R. Maclay, Sr. & M. Josephine Maclay, Co-Trustees and Fleta Elizabeth Kenna, Trustee, for public road and all other public purposes (River Pines Road, O'Brien Creek Road, and Big Flat Road), located in a portion of Section 27, T. 13 N., R. 20 W., PMM Missoula County, and is shown as Tract A-1, Tract A-2 and Easement B of Certificate of Survey No. 4067.

Contract

The Board of County Commissioners signed a Contract between Missoula County and Quality Landscaping and Lawn Care for grounds maintenance for the County Courthouse, as per the terms set forth, for the period from July 1, 1992 to October 1, 1995, for a total payment in the amount of \$22,412.50.

Other items included:

The Commissioners approved a request from Hal Luttschwager, Risk Manager, authorizing the Trustees at First Interstate Bank to invest a portion of the Medical and Self-Insurance Trust Funds for periods over one year, as per the Memorandum dated April 28, 1992. The Authorization Memorandums were returned to Hal Luttschwager 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 Chairman Barbara Evans. Also present were Commissioners Janet Stevens and Ann Mary Dussault.

Barbara Evans introduced and welcomed two visitors from the Commonwealth of the Independent States: Ekaterina Boiko has worked as a seamstress for more than thirty years and has been a superintendent of several factories and is also a member of the Ukrainian Parliament. Galina Negrustueva whose home is Russia where she was formerly an English professor; she now works with the Women's Union of Russia.

PRESENTATION OF: 15-Year Service Award to Bob Schieder

Barbara Evans presented a 15-year Service Award to Bob Schieder of General Services. The Commissioners thanked Bob for his years of service.

HEARING: Eagle's Nest (Preliminary Plat)

John Mangiameli, Office of Community Development, explained this is a request by Dick Ainsworth of PCI, for Eagle's Nest Estates, Inc., to subdivide 11.45 acres of land into 9 single family lots. The property is located in the SE 1/4, NE 1/4 of Section 22, and the W 1/2, W 1/2, Section 23, T13N, R20W, and lies at the end of Council Way on Council Hill. The subdivision lots are on 9.43 acres.

The Office of Community Development staff recommends approval for Eagle's Nest Estates Preliminary Plat subject to 14 conditions in the staff report and based on the Findings of Fact. This is the fourth public hearing on this issue.

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6. The following design parameters shall be incorporated into the covenants:

- 1) Grading shall produce slopes that generally conform with the existing landform.
- 2) Cut and fill for driveways and parking areas are not to exceed 3:1 side slopes.
- 3) An architectural control committee shall be established and shall, as one of its duties, ensure compliance with Condition No. 6.1 and shall be approved by the County Surveyor.

7. Final road, grading, and drainage plans shall be reviewed and approved by the County Surveyor.

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

9. Approach permits shall be applied for and granted prior to home construction. All driveways shall be paved.

10. The plat shall show the location of the 100-year Floodplain line.

11. The covenants shall include 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 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, 721-5700. Where feasible, a copy of "Living with Wildlife" should be given to lot purchasers.

12. 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 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.

13. The developer shall file Property-Owner's Articles of Incorporation and By-laws, with proof of filing with the Secretary of State.

14. Utilities shall be placed underground.

The motion carried on a vote of 2-1 with Ann Mary Dussault voting in opposition.

DECISION ON: Request to Vacate Portion of FWE Schnitz Old Petition Road (in Petty Creek area)

Barbara Evans explained that last week a hearing was held on the FWE Schnitz Old Petition Road, located in Sections 1 & 2, T13N, R23W and further described in Road Book of the Missoula County Surveyor as: FWE SCHNITZ Petition 1902 Road Book B page 21 Commissioners Journal Book H pages 195, 209, 235, 268 a portion thereof. A portion of the road Petition of the Schnitz Petition dated 1902 that extends through the Johnson property described in Book 141 and page 909 & 910 as a portion of vacated County Road. Also all the road that is in the parcel that is within Book 242 Page 1687 located in the SW 1/4 of SW 1/4 of Section 1, T13N, R23W, P.M.M., Missoula County, Montana. The reasons for the petition are, "This old county road hasn't been used or maintained in the past forty years approximately and represents no more than a narrow driveway. A well maintained county road parallels this old inactive road and provides excellent access to all the private properties in this valley."

She stated that the County Surveyor and Ann Mary Dussault had inspected the site April 28, 1992, as per State law.

Horace Brown, Surveyor, stated that the County and the residents in the area have access from the other County road and also from the southern portion of the same petition road; he did not see any problem vacating this road.

Ann Mary Dussault stated that she concurred with Horace Brown. She said the area to be vacated goes straight through Judy Johnson's property. She said there are a number of property owners who access the road from one end; therefore, the whole road will not be vacated.

Ann Mary Dussault moved and Janet Stevens seconded the motion to grant the request to vacate portion of FWE Schnitz Old Petition Road (in Petty Creek area) located in Sections 1 & 2, T13N, R23W and further described in Road Book of the Missoula County Surveyor as: FWE SCHNITZ Petition 1902 Road Book B page 21 Commissioners Journal Book H pages 195, 209, 235, 268 a portion

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thereof. A portion of the road Petition of the Schnitz Petition dated 1902 that extends through the Johnson property described in Book 141 and page 909 & 910 as a portion of vacated County Road. Also all the road that is in the parcel that is within Book 242 Page 1687 located in the SW 1/4 of SW 1/4 of Section 1, T13N, R23W, P.M.M., Missoula County, Montana. The motion carried on a vote of 3-0.

HEARING: O'Brien Creek Meadow (Preliminary Plat)

Barb Martens, Office of Community Development, explained that John Diddel has submitted a preliminary plat for a 35 single family lot subdivision on 45.839 acres. The subdivision is located along O'Brien Creek, just south and west of the intersection of Big Flat, O'Brien Creek, Blue Mountain and River Pines Roads. The subdivision is to be developed in three phases over a period of three years. All 35 lots are approximately one acre in size. In addition to the 35 homesites, the developer is dedicating 4.186 acres of common area to the O'Brien Creek Meadows Property-Owners Association. A "no-improvement" easement within the confines of the private lotted area is proposed in an effort to provide buffer zones, wildlife corridors and visual breaks. The developer proposes individual wells and septic systems and paved interior roadways. A bridge spanning O'Brien Creek would be constructed and common area would be dedicated along O'Brien Creek.

John Diddel originally proposed in July, 1991, an 83-lot subdivision and PUD. The PUD proposal covered this 46 acre site along with approximately 30 additional acres to the west. In response to design, density, service and environmental concerns, the applicant produced a revised site plan which produced a density of 75 home sites. The rezoning request to PUD was successfully protested by the citizens which defeated the rezoning request. By law, the developer cannot resubmit a rezoning request for a period of one year. The developer has submitted the current subdivision request under C-RR1 zoning which is currently in existence. The C-RR1 zoning is a residential zone which allows a maximum density of one dwelling unit per acre. The applicant has chosen not to use a community sewer system or the existing high production on-sight well and is therefore limited to lots one acre in size as allowed by the Health Department. This makes it difficult to achieve all the goals of the C-RR1 zoning and the Comprehensive Plan. The site plan concept presented to the Office of Community Development could more fully demonstrate the conditions stated in the staff report. The site plan should provide for a greater variety of interior open space and connections that are more consistent with the characteristics of a rural community. Considerable progress was made to the site plan during the PUD process, and the staff strongly encouraged the developer to revise the current plan to demonstrate more adherence to the C-RR1 principles. The staff has received written comments and a number of residents spoke at the public hearing before the Planning Board as shown in their minutes. Some of the main concerns expressed included septic effluent contamination in regards to water quality, lighting levels, keeping dogs and cats contained, dust from unpaved roads, and impacts on schools and wildlife issues. The Office of Community Development recommended to the Planning Board approval of the Preliminary Plat subject to thirteen conditions.

The Missoula Consolidated Planning Board recommended that the preliminary plat for O'Brien Creek Meadows be disapproved. The reasons for the recommendation of disapproval include transportation issues (eventual closure of Maclay Bridge and Blue Mountain Road paving), potential ground water contamination and the need for a neighborhood planning update for the O'Brien Creek/Big Flat/Target Range area that would be initiated by the County within the next calendar year. This plan should include addressing issues such as improved services, natural resources management and enhancement opportunities and appropriate locations and types of future development.

After reviewing all testimony and documentation, the OCD staff recommends that O'Brien Creek Meadow - Preliminary Plat be approved subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities. The developer shall submit a hydro-geologic report, addressing issues such as effects of septic effluent to adjacent wells and possible contamination of surface and ground water. The report shall be approved by State and local health authorities.
2. Grading, drainage, erosional control, street, bridge, and site distance plans shall be approved by the County Surveyor's Office. All roadways shall meet County standards.
3. The developer shall provide a Noxious Weed Management Plan for this subdivision. This plan shall be subject to the approval of the Weed District Supervisor and the Rural Planning Office.
4. The developer shall develop an open space resource management plan and implementation program for the subdivision, prior to filing of Phase I, O'Brien Creek Meadow. The management Plan shall

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address wildland fire protection, protection and enhancement of wildlife habitat and fisheries, and weed control. Standards for the no-improvement easements shall be included. A mixture of native shrubs and conifers shall be planted with these easements to provide suitable habitat for wildlife. This plan shall be approved by the Board of County Commissioners.

5. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of O'Brien Creek and Blue Mountain Roads and may be used in lieu of their signatures on an RSID petition."

6. The developer shall develop a grassy swale storm drainage plan, subject to the approval of the City/County Health Department and the County Surveyor.

7. The developer shall provide easements for utilities in the appropriate areas.

8. The Covenants shall be revised to include the following information:

Article VIII:

Section 3 - All containers for the storage and disposal of garbage shall be kept indoors and covered in a clean and orderly condition.

Section 5 - Domestic animals can have a negative impact on neighboring wildlife populations. Dogs and cats shall be confined on the property of their owner and shall not be permitted to harass or chase wildlife, or to become a nuisance or annoyance to the neighbors.

Section 7 - Flowers, ornamental shrubs and gardens may be susceptible to damage from wildlife unless properly fenced and protected. The planting of native vegetation is encouraged.

Section 8 - (All wood burning equipment including fireplaces and stoves must be equipped with approved spark arresters.) All solid fuel burning devices must be equipped with approved spark arresters and meet the requirements of the Air Pollution Control Board. Barbecue pits shall not be permitted due to potential wildlife/human conflict. All barbecue grills shall be stored indoors, so as not to attract wildlife.

Section 12 - Salt blocks and feeding platforms for deer shall not be allowed on any premises. All carcasses of dead animals shall be removed immediately. Homeowner's are encouraged to review the County's "Living with Wildlife Brochure."

Section 15 - Residents within this subdivision shall follow the County Noxious Weed Control Act and Missoula County's Weed Control Plan.

Section 16 - Driveway approaches shall be paved a minimum of 20 feet.

Section 17 - Street and yard lights shall be prohibited.

Section 18 - Wood shingles shall be prohibited.

9. The type of fire hydrant, final location of the fire hydrant and the reserve water supply shall be approved by the Missoula Rural Fire Department.

10. The emergency access easement and any required improvements, such as a crash barrier, shall be approved by the Missoula Rural Fire District.

11. The covenants and restrictions 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 further that the documents contain the applicable provisions required by these regulations and any other provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

12. The developer shall file Property-owner's Association Articles of Incorporation and By-laws, with proof of filing with the Secretary of State.

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13. A "no-improvement" easement shall be provided on the north side of Lots 1, 2, 3, and 4 and shall have a minimum width of 50 feet.

The hearing was opened to public comment.

Andy Fisher, Eli and Associates, representing the developer John Diddel, He said the developer received some suggestions for the roads from Horace Brown, County Surveyor. However, there were no comments to indicate that the existing roads are inadequate and couldn't handle the traffic. There were some initial concerns expressed by Missoula Rural Fire relative to fire protection. The developers have met with and talked with them at the Subdivision Advisory Committee meeting. The developers made some proposals and Missoula Rural Fire has found them to be acceptable. The developers will install a hydrant utilizing the existing high production well; there will be an emergency evacuation route using the existing access road to the south. This also addresses one of the major concerns by the Sheriff's Department relative to providing an emergency evacuation route.

In the reports from the Health Department, dust from O'Brien Creek was not mentioned. The report did address the dust from Blue Mountain Road.

He stated that Howard Newman, hydrologist, completed his report on the ground water impacts. Mr. Newman concluded that there would be minimal impacts to ground water. Nitrate concentrations down gradient from O'Brien Creek Meadow under a normal and worst-case scenario are expected to increase between .06 and .25 milligrams per litre. The limitation from the State Health Department is 10 milligrams per litre. Mr. Newman also concluded that pumping of individual wells on the 35 lots will have an almost immeasurable impact on adjacent wells due to saturated thickness and high hydraulic conductivity. He also stated that even though the Hidden Heights community well is the nearest high capacity well down gradient from the proposed subdivision, it appears that the impacts from the 35 on-site septic systems will be minimal.

He said concerns about the proposal were received from Fish, Wildlife & Parks and Rural Planning. He stated the developer has attempted to address the concerns through the covenants, a common area along the creek to preserve the riparian area, and a "no-improvement" corridor has been established. The corridors consist of 50 and 100 feet. He said the developer is doing his best to minimize the impact on wildlife. This is an area where wildlife has adapted to people for quite some time; they will continue to adapt to people.

He said the developer is in compliance with the zoning of the area and all the regulations. He asked that the Board approve the request per the staff report with two changes in the conditions. He asked that the last sentence in Condition No. 4 be deleted. The condition talks about the management plan for the open space and for the no-improvement corridors. He feels the condition is a little detailed for this stage of the process. Also, he asked that "O'Brien Creek" in Condition No. 5 be deleted. He stated that the residents will be accessing the subdivision by way of Blue Mountain Road; the residents are not going to be the reason for the dust from O'Brien Creek Road. He said the developers are trading benefit in the open space along O'Brien Creek which is high value property. It is creek frontage and is therefore worth more. The developers have proposed to give up the value of the creek area and in exchange, should not be included in a RSID to pave O'Brien Creek Road.

Barbara Evans asked for testimony from proponents of the subdivision.

Howard Newman, Hydrologist, stated that the area, geologically, has an enormous amount of water coming out of O'Brien Creek. He felt the proposed 35 homes are not going to make much difference in the water quality. He stated that the developer should make sure the septic systems put in correctly and the wells are drilled and grouted correctly. He said the worst-case scenario for the Hidden Heights area down gradient, assumes that all of the septic wastes come down and goes right to that well. If this happens, the nitrate levels will increase from one to two tenths of a milligram per litre; five tenths at the most. Once the effluent is in the groundwater and moves into the Bitterroot floodplain, there is a horrendous amount of water. Therefore, he feels the impacts of this subdivision to groundwater are going to be minimal. He will work with the Hidden Heights residents on a sampling scheme to see if there is going to be impacts. He says he is comfortable with his findings.

Wally Congdon, representing the developer, said that the developer tried to provide the County with some of the amenities that were negotiated, talked about and discussed. The developers tried to prioritize the two items they felt were most important. 1) Preservation of the O'Brien Creek corridor and riparian zone; 2) Contribution of open corridors for wildlife. No-improvement zones also exist.

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The SID participation in O'Brien Creek remains questionable because of funds available. Discussions with John DeVore, Administrative Officer, indicated that forced participation in a SID for dust benefit isn't something that the County has required in the past. He said in a worst-case scenario, four lots would have to contribute towards the SID. Concessions were made relative to the four lots on the front of the property. There is a 50 foot no-improvement zone in the front so that no buildings are along the face of the gully. By doing this, the developers are trying to preserve some of the natural view. Also, by preserving this O'Brien Creek corridor, eventually, the developers hope to create a bikeway/pathway/walkway that goes through the common area in other subdivisions so that a corridor does exist. Because the common area does represent four acres or four lots that could have been sold, a substantial contribution has been made to parkland. The fire hydrant was another issue discussed that would help the neighborhood and be available for the Fire Departments use in case of a fire.

The hearing was opened to opponents of the subdivision.

Holly Meisner, resident, by use of a map, tried to put the subdivision in context with the rest of the area. She said by her calculations, the homes would increase about 83% with the incoming subdivision. She voiced concerns relative to transportation; Maclay Bridge will be unusable in the future. People will have to travel on the unpaved Blue Mountain Road to Highway 93 where they will have to make a left-hand turn onto the highway into town. She also voiced concerns relative to wildlife and losing the rural character of the area. She requested the Board to deny the request.

Charles Stevenson, resident, asked about the status of Maclay Bridge, the paving of Blue Mountain and O'Brien Creek Roads. He said he conducted a survey of proposed subdivisions in the Missoula area; there are approximately 700 new homes proposed. The subdivisions will provide sewer, public water, County roads, etc. The subdivisions are located in areas that can accommodate growth. The O'Brien Creek Meadows subdivision is not in an area that can provide the benefits of these other subdivisions. He voiced concerns relative to Target Range school and its inability to expand. Also, the condition of the roads and Maclay Bridge were of concern. He stated the County needed to define the problems of the area then plan and implement solutions. He feels the RSID contribution for the paving of O'Brien Creek should be required.

Hal Ort, resident, voiced concerns relative to the health concerns of water quality and septic systems. He also had concerns about fire safety. The existing well has an output of 450 gallons per minute and is dependant upon electricity; if the electricity somehow goes out, the well wouldn't be any good for fire protection. He wondered about Maclay Bridge in the event of a fire. He feels that there should be a plan to solve the areas problems. He said development is occurring in Missoula without neighborhood planning.

Bruce Fowler, resident, said the issue that concerned him was the seemingly hidden agenda for the property adjacent to the O'Brien Creek Meadows Subdivision. He wondered if the adjacent property will be developed by John Diddel. He had called and talked with the listing agent on the property. It was explained to him that the property was not for sale; the land was tied up under contract to John Diddel.

He expressed concerns relative to paving of Blue Mountain Road. He said that over 700 cars a day are using this road and will increase with the subdivision. He said that even without the subdivision, there are health and safety issues that need to be taken care of.

Fred Mizanko, resident of the area, stated that based on his past experience as an examiner for the State of Montana, he didn't feel that the tax dollars created by the development would be sufficient enough for the impact the subdivision would cause. He prepared a form to show that the revenue generated from taxes of the subdivision would not be sufficient to take care of the problems in the Big Flat area. He asked the Commissioners to place the development on hold until the issues are taken care of.

Joan Binder, scientist and resident of the area, voiced concerns relative to water contamination. She said it was difficult to pinpoint the source of contamination. She asked the Board to protect the residents from potential danger of water contamination from the subdivision.

Penny Oncken, resident, handed out a packet of Missoulian articles relative to the issues of the subdivision. She requested that the Board wait to decide on this issue until some sort of community meeting can be held. The eventual closing of Maclay Bridge, the school issue, etc. were of concern to her. She stated that she and her husband had just bought 500 acres of Maclay land in order to preserve the elk winter range and donate it someday to the Rocky Mountain Elk Foundation. For this reason, she is concerned about the proposed subdivision and the effects it will have on the

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wildlife. She also stated that if the County did not have the money, she would pay for signs disclosing the condition of Maclay Bridge.

Paul Meismer, attorney and resident of the area, stated the subdivision does not address the issue of preservation and protection of wildlife. He expressed concerns relative to the response time of the Fire Department before and after the eventual closing of Maclay Bridge. He spoke about the need for affordable housing in Missoula; this subdivision does not address that need. He also voiced concerns relative to the inability of local services to handle the subdivision; the claims the developers have made in their sales brochure relative to the distance to hospitals, the claim that the subdivision is on paved roads, etc. The response time of the fire trucks, the increased traffic, effects on the taxes and the County budget, water quality, and road dust problems were all concerns Mr. Meismer expressed. He also felt that everyone, including the residents of the subdivision should contribute towards the RSID for the paving of O'Brien Creek Road. He felt the subdivision was inappropriate for the area. He asked for planning of the whole area and replanning of the subdivision.

Harvey Delger, resident, called for a plan for the area. He also voiced opposition to a high density subdivision; the residents do not want it.

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

Horace Brown, County Surveyor, stated that the cost to replace Maclay Bridge would be approximately \$5.5 million. He said there is no money available for counties to build bridges except through the Federal Highway Department that gives funds to the State. There is a list of priority bridges; the next list that will be submitted will not be until 1995. Because there are other exits out of the area, the funding for the bridge would be low on their priority list. He said the funding for the paving of Blue Mountain Road is not available from the County at this time. The Forest Service will pay for part of the paving; however, funds are not available at this time and it will be approximately two years before funds are made available. The County will match funds with the Forest Service. This fall or next spring the County will re-align the road and replace a culvert that goes into the Forest Service recreation area. In the future, the County will try to obtain right-of-way so that the "S" curves can be taken out of Blue Mountain Road.

Fred Mizanko asked about the status of the RSID to pave O'Brien Creek Road?

John DeVore, Administrative Officer, stated that a meeting will be set up with the residents before the middle of May. There are two ways the County has looked at the cost of the RSID to each of the residents. The first method looked at the benefit in terms of deriving benefit from dust abatement and whether there was pavement in front of the house. He said they were also looking at equalizing the cost of the RSID. This would come about by the resident actually benefitting by using the road to access the property. This second method will have to be cleared through the County Attorney's Office. He said he will have to go back and look through the land records and make sure all the parcels have been counted that would benefit from the project. He also said he needed to discuss with the Board how many of the lots in the proposed subdivision would be involved in the project.

Ann Mary Dussault asked Wally Congdon about the other piece of property adjacent to the subdivision. Is the developer going to buy it?

Wally Congdon stated that the original buy/sell agreement was for the 78 acres. The proposal was approved by the Board of County Commissioners December 4, 1991; however, the rezoning request to PUD was successfully protested by the citizens. The purchase of the entire parcel was then put on hold. The other piece could be developed for only five or six units. He stated the roadway discussed earlier is within the subdivision; the roadway exists over the zoning boundary which has nothing to do with lot ownership. The developer placed the roadway on this line so that lots would not be lost. The contract for the purchase of the property provides that they are purchasing just the property contained within the proposed subdivision. As part of the transaction, John Diddel has several rights associated with the purchase: 1) The developers have the right to locate an easement across the adjoining property to provide access to Forest Service land. 2) The developers have an option if the developer decides either to purchase the property or to refuse if someone were to try to buy it. He said at this point in time, John Diddel has no plans for this parcel of property. Mr. Maclay, as part of the agreement, required the developer to make provision that the

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road become an easement for the adjoining Maclay property should there be a decision to access this in the future. He said, in addition, the developer has gotten the message that the neighborhood does not want additional density on this piece of property. He said he feels that there will not be any future development beyond six or seven buildings regardless of who develops it.

Michael Sehestedt, Deputy County Attorney, asked if the adjoining property was available for sale if Mr. Maclay wished to sell it?

Wally Congdon stated that at this point in time, the parcel is not available; however, down the road it will be available should the developer decide not to do anything with it.

Michael Sehestedt asked at what point in time the parcel would be available for sale? When the "deal" is closed for the subdivision piece, could the balance of the property be sold by Mr. Maclay to a third party?

Wally Congdon stated that with Mr. Diddel's permission and consent he could sell it. The developer would have to site the easements, and should Mr. Diddel decide not to have anything to do with the property, it could be sold right away. He said they are treating the transaction as if it were closed. The closing statement has not been signed; although the first payment has been made and the realtor has been paid as well. The reason for this is that it takes approximately a month to get the signatures of the Maclays as they are spread across the country.

Ann Mary Dussault asked if it were true that John Diddel was marketing the property as being on paved roads?

Wally Congdon stated the paved roads are within the area. The roads within the subdivision will be paved and the subdivision is accessible from paved roads.

Janet Stevens stated that she was concerned that the residents and County weren't getting anything from this subdivision such as the community water and septic system, fire concerns and response time of the department, the upgrading of the roads with developer participation, and neighborhood planning. She stated there are too many issues that haven't been resolved for her to vote in favor of the subdivision. She said she voted in favor of the last proposal by the developer because she felt the developer did everything in his power to address the concerns of the residents and participated in the process as best he could. She said that if it were in her power, everyone would be out of this O'Brien Creek area because she feels that everyone is a problem and is responsible for what is happening out there.

Ann Mary Dussault moved and Janet Stevens seconded the motion to amend Condition No. 4 to read "The developer shall develop an open space resource management plan and implementation program for the subdivision prior to filing of Phase I, O'Brien Creek Meadow. The management plan shall address wildland urban interface fire protection issues, protection and enhancement of wildlife habitat and fisheries and weed control. Standards for the no-improvement easements shall be included. 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." The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Janet Stevens seconded the motion to delete Section 18 of Condition No. 8, Article VIII, which states "Wood shingles shall be prohibited." The motion carried on a vote of 3-0.

Ann Mary Dussault stated that her reasons for wanting to delete Section 18 is that she believes that there are fire resistant wood shingles now available. Also, dealing with structural issues comes within the Wildland Urban Interface Fire Protection Plan.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve O'Brien Creek Meadows Preliminary Plat based on the Findings of Fact in the staff report and the amended conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities. The developer shall submit a hydro-geologic report, addressing issues such as effects of septic effluent to adjacent wells

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and possible contamination of surface and ground water. The report shall be approved by State and local health authorities?.

2. Grading, drainage, erosional control, street, bridge, and site distance plans shall be approved by the County Surveyor's Office. All roadways shall meet County standards.

3. The developer shall provide a Noxious Weed Management Plan for this subdivision. This plan shall be subject to the approval of the Weed District Supervisor and the Rural Planning Office.

4. The developer shall develop an open space resource management plan and implementation program for the subdivision prior to filing of Phase I, O'Brien Creek Meadow. The management plan shall address wildland urban interface fire protection issues, protection and enhancement of wildlife habitat and fisheries and weed control. Standards for the no-improvement easements shall be included. 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.

5. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of O'Brien Creek and Blue Mountain Roads and may be used in lieu of their signatures on an RSID petition."

6. The developer shall develop a grassy swale storm drainage plan, subject to the approval of the City/County Health Department and the County Surveyor.

7. The developer shall provide easements for utilities in the appropriate areas.

8. The Covenants shall be revised to include the following information:

Article VIII:

Section 3 - All containers for the storage and disposal of garbage shall be kept indoors and covered in a clean and orderly condition.

Section 5 - Domestic animals can have a negative impact on neighboring wildlife populations. Dogs and cats shall be confined on the property of their owner and shall not be permitted to harass or chase wildlife, or to become a nuisance or annoyance to the neighbors.

Section 7 - Flowers, ornamental shrubs and gardens may be susceptible to damage from wildlife unless properly fenced and protected. The planting of native vegetation is encouraged.

Section 8 - (All wood burning equipment including fireplaces and stoves must be equipped with approved spark arresters.) All solid fuel burning devices must be equipped with approved spark arresters and meet the requirements of the Air Pollution Control Board. Barbecue pits shall not be permitted due to potential wildlife/human conflict. All barbecue grills shall be stored indoors, so as not to attract wildlife.

Section 12 - Salt blocks and feeding platforms for deer shall not be allowed on any premises. All carcasses of dead animals shall be removed immediately. Homeowner's are encouraged to review the County's "Living with Wildlife Brochure."

Section 15 - Residents within this subdivision shall follow the County Noxious Weed Control Act and Missoula County's Weed Control Plan.

Section 16 - Driveway approaches shall be paved a minimum of 20 feet.

Section 17 - Street and yard lights shall be prohibited.

9. The type of fire hydrant, final location of the fire hydrant and the reserve water supply shall be approved by the Missoula Rural Fire Department.

APRIL 29, 1992 (CONT.)

10. The emergency access easement and any required improvements, such as a crash barrier, shall be approved by the Missoula Rural Fire District.

11. The Covenants and Restrictions 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 further that the documents contain the applicable provisions required by these regulations and any other provisions upon which plat approval was based or conditioned and that the provisions do not conflict.

12. The developer shall file Property-owner's Association Articles of Incorporation and By-laws, with proof of filing with the Secretary of State.

13. A "no-improvement" easement shall be provided on the north side of Lots 1, 2, 3, and 4 and shall have a minimum width of 50 feet.

The motion carried on a vote of 2-1 with Janet Stevens voting against the motion.

Barbara Evans said that she voted to approve the subdivision because Missoula County has been split by Certificate of Survey and not through the subdivision process. Subdivisions help pay for the infrastructure that has not been provided through Certificate of Survey. When land is purchased through a COS, there is no requirement for the developer to make improvements. She said she is not willing to penalize the people that are willing to go through the subdivision process. The developers of this subdivision are abiding by the rules. The residents would have gotten all the improvements proposed by the developers if they hadn't overturned the zoning. Now the developers are proposing a subdivision that is within the rules and allowable; the residents will get none of the things they would have gotten through a Planned Unit Development.

Ann Mary Dussault invited the residents to view the map of all the land splits in the Missoula area. She said less than 5% of land splits go through the subdivision review process. She said this means that most of the land being divided is being divided without any regulations whatsoever. The concerns of the residents are being dealt with by the subdivision process. The County has a better handle on protecting exactly the concerns of the residents by going through this process. She said the dividing of land by the use of Certificate of Survey has a larger and greater impact on the land and all of the issues than the density of subdivisions.

She stated that she felt that if everyone, the Forest Service, the County and the residents worked together, Blue Mountain and O'Brien Creek Roads could be improved. The response time for the Fire Department to this area is approximately one minute off the response time in town. If Blue Mountain Road were improved it would bring the response time within the allowable time line. She said that together everyone has the capacity to deal with issues. The work Amy O'Herren of Rural Planning is doing to plan for conservation easements to protect the habitat in this area can deal with the issues.

Chairman Barbara Evans recessed the meeting as the Board of County Commissioners and reconvened as the Planning and Zoning Commission. Present were Commissioners Barbara Evans, Ann Mary Dussault and Janet Stevens. Also present were members Horace Brown and Wendy Cromwell.

HEARING: Development Request ZD #4 (Livingston)

Zoe Mohesky, Office of Community Development, explained that review and approval of a request to construct a single family residence with detached and attached garages on property described as Lot D-2, COS No. 1940, located in the East 1/2, Section 3, Township 13 North, Range 19 West, P.M.M., in Pattee Canyon.

Creation of this parcel through the certificate of survey occasional sale exemption process occurred on April 3, 1991. this approval was based on the condition that an easement is granted for said driveway. The easement would allow the drive to pass through the parcel to the east owned by Alison Livingston.

The Livingstons plan to construct a single family home with accessory structures and a driveway access as part of this request. The house would be a three story (one story being a daylight

APRIL 29, 1992 (CONT.)

basement) of 2800 square feet. No trees will be removed in construction of the home, but some may be removed for the drainfield.

As part of their proposal, the Livingstons have requested a modification to the original driveway plan. They propose to locate the easement further to the north to reduce fill and follow the contour of the land. The driveway forms a semi-circle accessing the private road at 2 points.

On April 7, 1992, the Missoula Consolidated Planning Board recommended approval of this request.

The OCD staff made no recommendation on this request. However, staff notes that the parcel meets the minimum lot size and that the proposed use is permitted by Z.D. #4 regulations.

She stated that the Livingstons are now scaling back their house plans so it will not be as large as originally planned. They are also looking at moving the three car garage to the southwest corner instead of across from the house.

Barbara Evans opened the hearing to public comment.

Ann Mary Dussault asked about the loop driveway.

A discussion ensued relative to the driveway. It was decided that the Livingstons be present at next week's public meeting to answer questions relative to the driveway.

Ann Mary Dussault moved and Horace Brown seconded the motion to continue the hearing to next week. The motion carried on a vote of 5-0.

The Planning and Zoning Commission recessed and the meeting reconvened as the Board of County Commissioners.

HEARING: Use of Occasional Sale & Family Transfer (Skjelset) COS 1248

Marnie McClain, Deputy County Attorney, explained that Greg Martinsen of Martinsen Surveys has submitted affidavits for Doug Skjelset for an occasional sale exemption and a family transfer exemption for COS 1248. Tract C of COS 1248 is located in Turah Estates. The parcel proposed for division is approximately 8.85 acres in size and was created in 1977 by use of the occasional sale exemption. The proposed division would create three parcels. According to the affidavits, the applicant proposes to transfer one parcel to his 20 year old daughter and to sell another.

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.

Greg Martinsen, of Martinsen's Surveys, stated that Mr. Skjelset intends to transfer the property to his daughter who will sell the land in order to acquire money for college.

Mr. Skjelset does not live on the property and has owned the property since November of 1991.

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

Ann Mary Dussault moved and Janet Stevens seconded the motion to deny the request by Doug Skjelset for an occasional sale exemption and a family transfer exemption for COS 1248, on the basis that it would appear there is an intent to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

HEARING: Use of Occasional Sale & Boundary Relocation (Arndt) Tract B18-A-4 of COS 2571

Marnie McClain, Deputy County Attorney, explained that Greg Martinsen of Martinsen Surveys has submitted affidavits for David G. Arndt for an occasional sale and a boundary relocation for Tract B18-A-4 of COS 2571. This parcel is located south of Lolo and is approximately 2.71 acres in size. The applicant proposes to create two parcels, one of which would be offered for sale to

APRIL 29, 1992 (CONT.)

an unknown buyer. A boundary relocation has also been submitted which would relocate the boundary of approximately .34 acres to an adjacent neighbor.

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 testimony.

Greg Martinsen stated that the applicant wanted more room between his house and the boundary line. He said the major reason the applicant bought the property was to be able to move the line and sell the remainder to break even on the purchase of the property. He is making two parcels into three. The applicant has owned the property since 1981.

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

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the request by David G. Arndt for a boundary relocation for Tract B18-A-4 of COS 2571. The motion carried on a vote of 3-0.

Janet Stevens moved and Ann Mary Dussault seconded the motion to deny the request by David G. Arndt for an occasional sale for Tract B18-A-4 of COS 2571 on the basis that there appears to be an intent to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

HEARING: Use of Occasional Sale (Motta) Tract 1 of COS 3936

Marnie McClain, Deputy County Attorney, explained that Greg Martinsen of Martinsen Surveys has submitted affidavits for Joseph Motta for an occasional sale exemption for Tract 1 of COS 3936. This parcel is in the upper Miller Creek area near the Rodeo Ranchettes subdivision. The parcel proposed for division is slightly over 20 acres in size and was created in 1991 by its previous owners. The proposed division would create two parcels, of 11 and 9 acres respectively. The parcel would be sold.

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

The hearing was opened to public comment.

Greg Martinsen, Martinsen Surveys, stated the applicants do not live on the property. He stated that under law the applicant has the right to one land split per year.

Ann Mary Dussault stated that this is true, but the Board looks at the history of both the property and the individual for property splits. She said clearly the property is at Stage 2 of the subdivision process. Stage 1 is the division of the largest parcel into 20 acre parcels; Stage 2 is the division of the 20 acre parcel into two tracts. She said the next stage would be the third Stage which is dividing it into smaller tracts. The Board is within its' boundaries to deny the request based on the history of the parcel.

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

Ann Mary Dussault moved and Janet Stevens seconded the motion to deny the request by Joseph Motta for an occasional sale exemption for Tract 1 of COS 3936 based on the fact that it would appear as though the history of the parcels would indicate the beginning of the subdivision process and an attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

HEARING: Use of Occasional Sale & Family Transfer (Morton) Parcel of land described at Book 345 Page 1758

Marnie McClain, Deputy County Attorney, explained that Greg Martinsen of Martinsen Surveys has submitted affidavits for Johnny M. Morton for an occasional sale exemption and a family transfer exemption for a parcel of land described at Book 345 Page 1758. This parcel of land is

APRIL 29, 1992 (CONT.)

located past East Missoula and just over Brickyard Hill. The parcel proposed for division is approximately 10.5 acres in size and was created in 1971. The proposed division would create three parcels. Tract 4-A, approximately 2.5 acres in size would be transferred to Morton's wife. Tract 4-B, approximately 1.87 acres in size, would be offered for sale to an unknown buyer. The remainder parcel would be approximately 6.11 acres in size.

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 testimony.

Greg Martinsen, Martinsen Surveys, stated that the applicants wife lives on the property. He assumed the request is a property settlement issue.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the request by Johnny M. Morton for an occasional sale exemption and a family transfer exemption for a parcel of land described at Book 345 Page 1758 as it doesn't appear to evade the Montana Subdivision and Platting Act and both the applicant and the property in question have no prior history of land divisions. The motion carried on a vote of 3-0.

HEARING: Use of Agricultural Exemption (Scharf) COS NO. 190

Marnie McClain, Deputy County Attorney, explained that Greg Martinsen of Martinsen Surveys has submitted an affidavit from Betsy Scharf for two agricultural exemptions for COS #190. This parcel of land is located in Spring Valley near Clinton and is approximately 27.5 acres in size. The parent parcel was created prior to July 1974. The applicant proposes to divide the property into two parcels. Parcel A-1 would be approximately 19 acres in size and parcel A-2, which would be sold to an adjoining neighbor, would be approximately 8.3 acres in size. According to Greg Martinson, the property is too steep to be built upon.

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

The hearing was opened to public comment.

Greg Martinsen stated that the property owner wishes to pasture a couple of horses on the property as well as cut down trees for firewood. A Champion easement exists on the property. He said the applicant was requesting an agricultural exemption on both parcels.

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

Ann mary Dussault moved and Janet Stevens seconded the motion to approve the request by Betsy D.Scharf for two agricultural exemptions for COS #190 as there appears to be no intent to evade the Montana Subdivision and Platting Act and the property is too steep to be built upon. The motion carried on a vote of 3-0.

HEARING: Use of Occasional Sale (Crook) Tract D of COS 2079

Marnie McClain, Deputy County Attorney, explained that Greg Martinsen of Martinsen Surveys has submitted an affidavit for Gregory D. and Gail M. Crook for an occasional sale for Tract D of COS 2079. This parcel is located near the pulp mill. The parcel proposed for division is approximately 6.8 acres in size and was created in 1979 by court order. The proposed division would create two parcels of approximately equal size. According to the affidavit, two residences currently exist on the parcel, which the applicants would sell the remainder to the current tenant.

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.

APRIL 29, 1992 (CONT.)

Greg Martinsen stated that the property has existing water that is shared jointly by the two residences. The septic system is approved as a community system which has been inspected by Greg Martinsen. He explained that the septic tanks pump into a main line. He said the system could service more than the two residences. It was approved by the Health Department.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the request by Gregory D. and Gail M. Crook for an occasional sale for Tract D of COS 2079 based on the fact it does not appear to evade the Montana Subdivision and Platting Act and there have been no prior divisions of this property except for the court order. There are two existing structures on each of the proposed lots that are served by a community septic system and a common well. The motion carried on a vote of 3-0.

HEARING: Use of Occasional Sale (Wisherd-Brewer) Portion of SW 1/4 Section 8 T13N R17W

Marnie McClain, Deputy County Attorney, explained that Greg Martinsen of Martinsen Surveys has submitted an affidavit for Bonnie Jean Wisherd-Brewer for an occasional sale for a parcel of land described as a portion of SW 1/4 Section 8 T13N, R17W. The parcel is located up the Blackfoot, past the Wisherd Bridge. The parent parcel is over 200 acres in size. The proposed division would create a 2.21 acre parcel which would be transferred to the applicant's nephew. A house currently exists on the parcel.

According to the records kept by the Missoula County Surveyor's Office, Ms. Wisherd-Brewer has utilized the boundary relocations exemptions on two previous occasions--once in 1987 and one in 1990.

The hearing was opened to public comment.

Greg Martinsen stated that located on the property is a spring cistern. There are two existing residences.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the request by Bonnie Jean Wisherd-Brewer for an occasional sale for a parcel of land described as a portion of SW 1/4 Section 8 T13N R17W as there appears to be no intent to evade the Montana Subdivision and Platting Act and there is an existing residence with access to a centralized cistern. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the meeting was recessed at 5:10 p.m.

* * * * *

APRIL 30, 1992

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

DAILY ADMINISTRATIVE MEETING

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

Plat & Subdivision Improvements Agreement and Guarantee

The Board of County Commissioners signed the Plat for Linda Vista Seventh Supplement, Phase 1, an urban residential subdivision located in the SW 1/4 of Section 12 T. 12 N., R. 20 W., PMM, Missoula County, a total area of 2.07 acres, with the owners/developers being the Twite Family Partnership. The Commissioners also signed a Subdivision Improvements Agreement and Guarantee, whereby the parties agree that the public improvement (a gravel road) must be completed by the end of 1992, and the owner is providing real estate described in the Agreement valued at approximately \$942,000.00 as security for completing this improvement.

APRIL 30, 1992 (CONT.)

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and David F. and Staci Elmore for Lot 4, Orchard Acres, as per the terms and special provision set forth, for a total purchase price of \$16,000.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Wayne and Dorothy Knutson for Lot 19 of Grantland #12, as per the terms set forth, for a total purchase price of \$18,900.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Addendum to Sell and Purchase Agreement

The Board of County Commissioners signed an Addendum to the Sell and Purchase Agreement between Missoula County and Keith W. Anderson for Lots 5, 6, and 7 of Grantland #13, granting the buyer an extension to close the transaction from May 1, 1992, until July 1, 1992, due to construction delays. The Addendum was returned to Jim Dopp, Operations Officer, for further handling.

Quitclaim Deed

The Board of County Commissioners signed a Quitclaim Deed from Missoula County to Glynn J. and Elizabeth Hengel for tax deed property in Missoula County, which was redeemed in June of 1991, described as N 1/2, SE 1/4, NE 1/4, SW 1/4, Plat D9, Section 25, T. 11 N., R. 20 W., 5ac. The Deed was returned to the Clerk & Recorder's Office.

Resolution No. 92-033

The Board of County Commissioners signed Resolution No. 92-033, a Resolution to Vacate a portion of Bird Lane located in the NW 1/4 of Section 22, T. 12 N., R. 20 W., PMM, Missoula County, as the road area is being used as a dump site.

Resolution No. 92-034

The Board of County Commissioners signed Resolution No. 92-034, a Resolution to Vacate a portion of Mullan Road from the west end of the Frenchtown School District #40 property, to the east end of the Frenchtown School District #40 property, located in the SW 1/4 of Section 35, T. 15 N., R. 21 W., PMM, Missoula County, as shown on the Exhibit A attached to the Resolution, and to reserve that portion of Mullan Road at the west end of the Frenchtown School District #40 property as shown on Exhibit B attached to the Resolution.

Addendum to Agreement

The Board of County Commissioners signed an Addendum to the Agreement between Missoula County and Logistic Systems, Inc. for the purpose of updating and further the defining the Agreement for service, license and maintenance dated April 8, 1991, to recognize the delays in the project implementation, and to agree to a new timeline for the installation of the CAD System, as per the conditions set forth.

Agreement

Acting Chairman Dussault signed an Agreement between Missoula County and Unisys for the purchase of equipment and support services, as per the terms and schedules attached. 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 Commissioners Office.

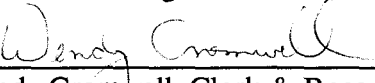
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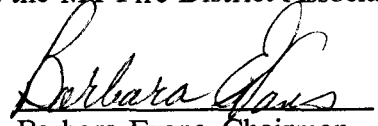
MAY 1, 1992

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

MAY 2, 1992

On Saturday morning, Commissioner Dussault gave a Welcome at the MT Fire District Association's Convention being held at the Reserve Street Inn.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

MAY 4, 1992

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, Commissioner Stevens spoke to two Criminology Classes at Sentinel High School. In the afternoon, Commissioner Evans attended a press conference regarding the Raser Drive/Van Evans Crossing closure.

Monthly Report

Chairman Evans examined, approved and ordered filed the monthly reconciliation report for Justice of the Peace, Michael D. Morris, for the month ending April 30, 1992.

DAILY ADMINISTRATIVE MEETING

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

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County, the cooperating agency, and the Human Resource Council, the administering agency, for the purpose of supporting the objectives of the Department of Labor's "Job Training Partnership Act", which provides an employment and training activity known and described as "Work Experience", as per the mutual promises set forth in the Agreement, for the period from May 15, 1992, through September 30, 1992. The Memorandum of Agreement was returned to the Personnel Office for further signatures and handling.

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

MAY 5, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was in briefly late in the afternoon. In the afternoon, Commissioner Dussault spoke to two government classes at Big Sky High School.

Audit List

Commissioners Dussault and Evans signed the Audit List dated May 5, 1992, pages 6-30, with a grand total of \$136,856.79. 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:

Warranty Deed, Settlement Statement & Escrow Agreement

The Board of County Commissioners signed a Warranty Deed, Settlement Statement, and Escrow Agreement between Missoula County and Larry D. Mansch and Kimberly S. Novak-Mansch for Lot 46 of Grantland #13, a platted subdivision in Missoula County. The documents were returned to Jim Dopp, Operations Officer, for further handling.

MAY 5, 1992 (Cont.)Warranty Deed

The Board of County Commissioners signed a Warranty Deed from Missoula County to Jack I. and Billie L. Nelson for Lot 47 in Hillview Heights #7, a platted subdivision in the City of Missoula, Missoula County, subject to the provisions set forth on the Deed. The Deed was returned to Jim Dopp, Operations Officer, for further handling.

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

* * * * *

MAY 6, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ending April 20, 1992.

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David Clark, for the month ending April 30, 1992.

DAILY ADMINISTRATIVE MEETING

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

Resolution No 92-035

The Board of County Commissioners signed Resolution No. 92-035, a Resolution vacating a road in the Petty Creek area from the present Petty Creek Road approximately 350 feet west of the intersection of the West Fork of Petty Creek Road south easterly to south line of Section 1, T. 13 N., R. 23 W., PMM, Missoula County; said road is located in the E 1/2 of Section 2 and the SW 1/4 SW 1/4 of Section 1, T. 13 N., R. 23 W., PMM, Missoula County, as shown on the exhibit attached to the Resolution, as this road hasn't been used or maintained in the past forty years approximately and represents no more than a narrow driveway.

Other items included:

The Commissioners approved capital expenditures by the Fair Commission as described in the April 21st, 1992, letter from Sam Yewusiak, Manager of the Western Montana Fair, as they are within the estimated revenues planned for FY'92 and will keep the current budget in balance.

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

WEEKLY PUBLIC MEETING

Chairman Barbara Evans called the meeting to order at 1:35 p.m. Also present were Commissioners Janet Stevens and Ann Mary Dussault.

The Board of County Commissioners recessed and reconvened as the Planning and Zoning Commission. Present were Commissioners Barbara Evans, Ann Mary Dussault, and Janet Stevens. Also present were members Horace Brown and Wendy Cromwell.

DECISION ON: Development Request - Zoning District #4 - Livingston

Barbara Evans stated that this development request by the Livingstons to construct a single family residence with detached and attached garages, was postponed from April 29th. She asked if the Office of Community Development staff had anything further to add to this issue.

Zoe Mohesky, Office of Community Development, stated she had nothing further to add.

MAY 6, 1992 (Cont.)

Greg Martinsen, Martinsen Surveys, stated that his sister and her husband wished to create a loop driveway and is accessed at two points on the main road. He said his sister and her husband had indicated that if the acceptance of the development request hinges on the driveway being shortened to going just past their house, then they would do that.

Ann Mary Dussault said she had a question relative to the loop driveway. The driveway goes past the house and to the property line and then out through an adjacent lot. She wondered if it would make more sense to look at ending the driveway just past the proposed house. When the other lot is developed an access can be planned at this time so the impact to the area is lessened.

Janet Stevens asked Alison Livingston why they wanted the loop driveway.

Alison Livingston stated that it would provide access to the adjacent property if there were ever future development. They wanted to take care of the access at this time instead of coming in again and asking for access. The loop driveway would also provide two exits in case of a fire.

Ann Mary Dussault stated she was concerned that the access be provided to the residence only; when the adjacent lot is developed the appropriate access could be determined at that time.

Alison Livingston stated that this would not create a problem.

Ann Mary Dussault moved and Wendy Cromwell seconded the motion to approve the development request by the Livingstons to construct a single family residence with detached and attached garages on property described as Lot D-2, COS No. 1940, located in the East 1/2, Section 3, Township 12 North, Range 19 West, P.M.M., in Pattee Canyon; with approval also for the driveway to provide access to the residence, adequate parking and turn-a-round. The motion carried on a unanimous vote.

Wendy Cromwell stated that she agreed with Ann Mary Dussault's comment that there are too many possibilities for siting a house on the adjacent property. To put a driveway in at this time may mean disruption and moving the driveway later to accommodate the house site.

Horace Brown stated that loop driveways are not allowed if it enters onto a County road.

The Planning and Zoning Commission were recessed and the meeting was reconvened as the Board of County Commissioners.

Ann Mary Dussault moved and Janet Stevens seconded the motion to adopt the recommendation of the Planning and Zoning Commission to approve the development request by the Livingstons to construct a single family residence with detached and attached garages on property described as Lot D-2, COS No. 1940, located in the East 1/2, Section 3, Township 12 North, Range 19 West, P.M.M., in Pattee Canyon; with approval also for the driveway to provide access to the residence, adequate parking and turn-a-round. The motion carried on a vote of 3-0.

HEARING: (Certificate of Survey Review) Use of Occasional Sale (Dave Orbe) Tract 4-A-2 of COS 1817

Marnie McClain, Deputy County Attorney, explained that Dave Orbe has submitted an affidavit for an occasional sale for Tract 4-A-2 of COS 1817. This parcel, which is located slightly past the Mormon Church in Lolo on Mormon Creek Road, was created in 1977. The applicant proposes to create two parcels of approximately equal size, one of which would be offered for sale to an unknown buyer.

The parent parcel was created in 1977 when Gerald Tucker created eight tracts over twenty acres. In 1978, this parcel was divided by the use of a family transfer exemption and then again in 1979 by way of an occasional sale.

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.

Dave Orbe stated that he has owned the property since April of 1991.

Ann Mary Dussault said that there are a number of issues regarding subdivision in Missoula County and how it occurs. She said the most difficult to deal with are large tracts that have been divided down several times until eventually, it has been subdivided. In the past, there have been individuals who have

MAY 6, 1992 (Cont.)

a history of dividing land; it has been her position to deny the Certificate of Survey. She said of equal concern is when there is a tract of land where there is subsequent division using the Certificate of Survey method. She said she looks at not only the individual, but the history of the tract of land.

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

Ann Mary Dussault moved and Janet Stevens seconded the motion to deny the request by Dave Orbe for an occasional sale for Tract 4-A-2 of COS 1817, on the basis of the history of the division of the parcel as well as there appears to be an intent to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0 with Barbara Evans abstaining from the vote.

Ann Mary Dussault explained that the Board may find an intent to evade the Montana Subdivision and Platting Act, but this is not a reflection on the integrity of the applicant.

Dave Orbe stated his intent was not to evade the law. He said when he purchased the land he wanted to split it in order to help pay for the purchase of the property and the construction of a home. The property is in a neighborhood that is split into quarter acre parcels. He said because of its size, it is difficult to manage the parcel by himself.

Janet Stevens said that one of the problems that occurs with the Certificate of Survey process, is there is no agency review. The agencies do not get to respond. The result of this process is over-crowded schools, fire departments that are unable to respond, etc.

Barbara Evans said the Board is not opposing the applicant's request to split his property, they prefer the applicant go through the subdivision process to do that.

Ken Allen, realtor, explained that the parcel is bordered by Sapphire Drive which has a maintenance agreement. All of the owners of property along this road pay to have the road maintained. He said one of the reasons he believes the parcel should be allowed to be split is the maintenance agreement on this road and the lots in the area are one acre lots. He spoke in favor of the split and said that it is allowed within the law. He asked the Commissioners to consider the request.

HEARING: (Certificate of Survey Review) Revocation of Agricultural Exemption (Brown) Tract 2 of COS 1152

Marnie McClain, Deputy County Attorney, explained that Timothy D. Brown and Julie P. Brown have requested that an agricultural covenant on Tract 2 of COS 1152 be revoked. The COS was filed in 1977. Dr. and Mrs. Brown intend to build a home on the parcel in 1993. This is a 10.27 acre tract located off Rymal Road.

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

She explained that 165 feet of this lot is in the City of Missoula and the remainder is in the County. She advised Mrs. Brown that she needed to contact the City relative to this issue. In a discussion with Michael Sehestedt, Deputy County Attorney, it was determined that the Board of County Commissioners is the appropriate body to revoke the covenant. However, the applicant still needs to advise the City of this issue and also needs to see if the City has to go through a revocation proceeding for the remaining 165 feet.

The hearing was opened to public comment; there being none the hearing was closed.

Ann Mary Dussault moved and Janet Stevens seconded the motion to revoke the agricultural covenant for Tract 2 of COS 1152 and that notices of such action be sent to the City of Missoula and to the Assessors Office. The motion carried on a vote of 3-0.

CONSIDERATION OF: Lincoln Heights (Summary Plat)

Barbara Martens, Office of Community Development, explained that Ken Allen has submitted a summary plat for a five single-family lot subdivision on 13.71 acres. The subdivision is located off of Winding Trails Drive in Upper Lincoln Hills. The lots range in size from 0.66 acres to 8.44 acres. The developer proposes to connect to City sewer service and Mountain Water Company. The current zoning is C-RR3, which allows a maximum density of four dwelling units per acre. The overall net density of this development is 0.4 dwelling units per acre or one dwelling per 2.65 acres.

MAY 6, 1992 (Cont.)

Lots 1 through 4 are clustered around the cul-de-sac extension of Winding Trails Drive. The largest lot, Lot 5, is located further up the hill so that density decreases as you move toward the top of the hill. To the northeast, east and south of the proposed subdivision is undeveloped land. To the west and north is land developed as part of the Lincoln Hills Subdivision, a subdivision developed at a density of approximately 2-3 dwelling units per acre.

She said the main issue discussed was the effects on wildlife on Mount Jumbo. Fish, Wildlife and Parks, along with Rural Planning and a wildlife biologist with the Forest Service made several comments relative to the proposed development. The site of the development lies within the winter/spring range for an elk herd of 70-100 animals. This site also supports numerous mule deer and whitetail deer, blue grouse, black bear and cougar; bighorn sheep have also been seen on this ridge.

She said after reviewing all testimony and documentation, the OCD staff recommends that Lincoln Heights summary plat be approved subject to the following conditions:

1. Grading, drainage, erosion control and street plans shall be approved by the County Surveyor.
2. The developer shall provide a Noxious Weed Management Plan for this subdivision. This plan shall be subject to the approval of the Weed District Supervisor.
3. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for Lot 5 within this subdivision shall constitute the assent of the owners to any future RSID/SID for the upgrading of the private access easement through Lot 5 and may be used in lieu of their signature on an RSID/SID petition."

4. One building site on Lot 5 shall be approved. The building site on Lot 5 is restricted to either Site A or Site B as shown on Attachment A. The building site shall be located outside of the building setback line established for the drainage way. No additional building sites shall be allowed without further subdivision review.
5. The developer shall develop a vegetative and wildlife management plan, to manage and preserve the open space in the entire subdivision. This management plan shall address wildland fire protection, protection and enhancement of wildlife habitat, weed control and scenic and ecological values. This plan shall be submitted within 12 months of the date of the Board of County Commissioners plat approval. The plan shall be subject to the approval of the Rural Planning Department, Fish, Wildlife and Parks, the Weed District Supervisor and the Board of County Commissioners.
6. As volunteered by the developer, the private access easement on Lot 5 shall have a deed restriction to limit access to only Lot 5 of Lincoln Heights, and to the currently existing lots to the north and south of this property, as contained in the existing easement.
7. The developer shall provide easements for utilities in the appropriate areas.
8. The type and location of the fire hydrant shall be approved by the Missoula Rural Fire District and City Fire Chief.
9. The Covenants and Restrictions 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 further that the documents contain the applicable provisions required by these regulations and any other provision upon which plat approval was based or conditioned and that the provisions do not conflict.
10. The developer shall provide a building setback easement along the drainage way within the subdivision. The easement location shall be subject to the approval of the Board of County Commissioners.
11. Final sewer plans shall be submitted to the City Engineer for approval.
12. The developer shall receive permission from the Board of County Commissioners to connect to City sewer.
13. Cash-in-lieu of parkland shall be dedicated to the County park fund.

MAY 6, 1992 (Cont.)

Barbara Martens suggested the following revisions to the conditions for Lincoln Heights Subdivision:

2. Delete.
3. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for Lot 5 shall constitute the assent of the owners to an equitable cost share for upgrading the private access easement through Lot 5 and may be used in lieu of their signature on an SID, RSID or road improvement agreement, provided the agreement is based on a cost share whose basis for assessment is proportionate to the number of lots benefitting from the improvement."

ADD:

14. The developer shall place the following statement on the face of the plat and in each instrument of conveyance:

"The purchaser and/or owner of Lot 5 understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner or property-owners' association and that the County of Missoula is in no way obligated until the road is brought up to standards and accepted by the County of Missoula."

The developer is requesting a variance from Article 3-3(B) which states, "No single lot shall be divided by a public street, road, alley, existing right-of-way or other lot." The developer states that a private easement crosses Lot 5. Currently, water pressure only serves the lower portion of the lot, so at this time it cannot be divided. The developer also states that, "It would be worse to simply create lots to meet the regulations."

The OCD staff recommends that the variance be granted for the following reasons; 1). The easement is private, and 2). Lot 5 is presently limited to one building site and no additional building can occur without further subdivision review.

Further, the OCD staff recommends that the subdivision be found to be in the public interest, based on the findings of fact in the staff report.

All lots will access onto paved roads brought up to County standards. The existing streets are capable of handling the additional traffic. The development as proposed will connect to City sewer and Mountain Water Company. Emergency services are available in Missoula.

The hearing was opened to public comment.

Nick Kaufman, Sorenson and Company, representing the developer, said that at the pre-application meeting they were advised to talk to Doris Fischer and the people looking at the Rattlesnake Valley plan which was updated in 1988 and is currently being revised; and the resource maps which should be up to date and accurate. He said he looked at the maps relative to where the elk and mule deer winter/spring range line was located. This line is approximately 600 feet away from the closest building site. He said that Ken Allen talked with Doris Fischer and she stated that the subdivision was indeed far enough away from the line. The developers prepared the five lot subdivision and incorporated the following characteristics: 1) The zoning is C-RR3 (4 dwelling units per acre). This would allow 53 units on the 15.7 acres. The developers are proposing 5 units. 2) The homesites are being clustered around the cul-de-sac and the density decreases as it moves up the hill.

There is development adjacent to the proposed subdivision and the density is about two units per acre. There are also two other individuals who could build above this specific project.

The developers have had meetings with the various agencies discussing restricting the upper lot to one building site. Also, the open space in this project has been discussed with Amy O'Herren of Rural Planning. They have also met with the Office of Community Development staff. He feels the outcome of these meetings has been some innovative ideas than have been incorporated into their proposed plan. 1) The buffer area is being protected down through the draw on the lot. This area will not be built upon; there is no access to the "saddle". Road easements will be restricted to Lot 5. The two existing lots above the development now have legal access and will allow no more homes to be built. 2) The developers have worked with the OCD staff developing the conditions in the subdivision submittal. 3) The developers feel the wildlife is important to the area. They have gone beyond what is in the covenants and have met with two of the adjoining property owners to work with them to restrict some development in the area.

MAY 6, 1992 (Cont.)

He stated that the developer has tried to provide a good project by accomplishing the following: significantly reducing density in the area and decreasing the density as the development moves up the hill; restricting the building sites on Lot 5; restricting the future use of the access easement; and protecting the important areas in the subdivision.

He said the development is not alone on the hillside; it is at the same elevation and adjacent to existing residential development at two units per acre. He asked the Board to approve the subdivision subject to the conditions as recommended by the Office of Community Development staff.

Charles E. Hardy, resident of Lincoln Hills, asked about the covenants and whether they would allow barn yard animals.

Scott Holinbeck, Real Estate Broker and resident of Lincoln Hills, spoke in favor of the subdivision. He said from the perspective of a home owner three doors away from the proposed subdivision, he feels it is an excellent plan. He said that Ken Allen has bent over backwards to accommodate the requests of all the agencies involved.

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

A discussion ensued relative to Mr. Hardy's question. The covenants will not allow barn yard animals in the subdivision.

Ann Mary Dussault asked about the location of the Yellowstone Pipeline.

Nick Kaufman stated the Yellowstone Pipeline runs one foot off the property line. The regulations state that structures cannot be placed within 50 feet of the pipeline.

Ann Mary Dussault asked when hookup to City sewer and annexation would occur.

Nick Kaufman stated that the developers would prefer to stay in Missoula County for the time being; they need the Commissioners permission to connect to the sewer pipe because the development is not a part of the SID. John DeVore, Administrative Officer, indicated that the developers should send a letter to the Commissioners to begin the process. He said the developers understand they will have to waive their right to protest a RSID and annexation. He said this will occur between one year and 18 months.

Ann Mary Dussault stated that she was concerned that Condition No. 5, which refers to a management plan, be approved by the County before the property is annexed into the City.

Nick Kaufman said he didn't think it would be a problem to work with the City and make sure there was a management plan in place before the property is annexed.

A discussion ensued relative to the green area or gully; this area will be restricted to homes.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the amendments to the Conditions as follows:

2. Delete.

3. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for Lot 5 shall constitute the assent of the owners to an equitable cost share for upgrading the private access easement through Lot 5 and may be used in lieu of their signature on an SID, RSID or road improvement agreement, provided the agreement is based on a cost share whose basis for assessment is proportionate to the number of lots benefitting from the improvement."

14. The developer shall place the following statement on the face of the plat and in each instrument of conveyance:

"The purchaser and/or owner of Lot 5 understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner or property-owners' association and that the County of Missoula is in no way obligated until the road is brought up to standards and accepted by the County of Missoula."

MAY 6, 1992 (Cont.)

The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Janet Stevens seconded the motion that the Summary Plat for Lincoln Heights be approved based on the Findings of Fact contained in the staff report and subject to the following conditions:

1. Grading, drainage, erosion control and street plans shall be approved by the County Surveyor.
2. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for Lot 5 shall constitute the assent of the owners to an equitable cost share for upgrading the private access easement through Lot 5 and may be used in lieu of their signature on an SID, RSID or road improvement agreement, provided the agreement is based on a cost share whose basis for assessment is proportionate to the number of lots benefitting from the improvement."

3. One building site on Lot 5 shall be approved. The building site on Lot 5 is restricted to either Site A or Site B as shown on Attachment A. The building site shall be located outside of the building setback line established for the drainage way. No additional building sites shall be allowed without further subdivision review.

4. The developer shall develop a vegetative and wildlife management plan, to manage and preserve the open space in the entire subdivision. This management plan shall address wildland fire protection, protection and enhancement of wildlife habitat, weed control and scenic and ecological values. This plan shall be submitted within 12 months of the date of the Board of County Commissioners plat approval. The plan shall be subject to the approval of the Rural Planning Department, Fish, Wildlife and Parks, the Weed District Supervisor and the Board of County Commissioners.

5. As volunteered by the developer, the private access easement on Lot 5 shall have a deed restriction to limit access to only Lot 5 of Lincoln Heights, and to the currently existing lots to the north and south of this property, as contained in the existing easement.

6. The developer shall provide easements for utilities in the appropriate areas.

7. The type and location of the fire hydrant shall be approved by the Missoula Rural Fire District and City Fire Chief.

8. The Covenants and Restrictions 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 further that the documents contain the applicable provisions required by these regulations and any other provision upon which plat approval was based or conditioned and that the provisions do not conflict.

9. The developer shall provide a building setback easement along the drainage way within the subdivision. The easement location shall be subject to the approval of the Board of County Commissioners.

10. Final sewer plans shall be submitted to the City Engineer for approval.

11. The developer shall receive permission from the Board of County Commissioners to connect to City sewer.

12. Cash-in-lieu of parkland shall be dedicated to the County park fund.

13. The developer shall place the following statement on the face of the plat and in each instrument of conveyance:

"The purchaser and/or owner of Lot 5 understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner or property-owners' association and that the County of Missoula is in no way obligated until the road is brought up to standards and accepted by the County of Missoula."

The motion carried on a vote of 3-0.

MAY 6, 1992 (Cont.)

Janet Stevens moved and Barbara Evans seconded the motion to grant the variance request from Article 3-3(B). The motion carried on a vote of 3-0.

Ann Mary Dussault asked about the access to the private easement in Lot 5 and if it would be restricted to only those who owned contiguous properties. The wildlife agencies may need access to those areas for management purposes.

A general discussion ensued relative to the private easement and how access could be granted to the wildlife agencies for management purposes. Mountain Water has an easement for their water tower. It was agreed that if access was needed to this property, the people should contact the owners and gain permission. This method was preferred to an open easement where anyone could go in this area.

At this time, Barbara Evans briefly left the meeting.

HEARING: Petition to Alter a Portion of O'Brien Creek Road

Acting Chair Ann Mary Dussault explained from information received from Vickie Zeier, Recording Supervisor in the Clerk and Records Department, that a petition to alter a "portion of O'Brien Creek Road, Located in W 1/2 of Section 28, Township 13 North, Range 20 West, and further described in the Road Book of the Missoula County Surveyor as: The Petition of O'Brien Creek Road declared a Public Highway 9-24-1901.

The reason for this request is as follows: "For better road alignment and safety."

The following landowners were notified of the hearing:

Daniel and Linda McDonell, Pamela R. Scharbauer, Missoula Rural Fire, Trudy S. Khoury, William Scott and Linda L. Brown, and G.E.S., Inc.

Barbara Evans rejoined the meeting.

Horace Brown, County Surveyor, stated that the purpose of this request is to move the 60 feet of the petition to where the road is now and vacate the portion back to property owners. He said when the original petition is altered, it will be moved to where the road exists presently. The portion that is outside the 60 feet of right-of-way is automatically vacated to the landowner. The rest of the petition to the north cannot be vacated as it is the only access for two property owners.

The hearing was opened to public comment; there being none, the hearing was closed.

Barbara Evans stated that by law the County Surveyor and one of the Commissioners must inspect the vacation. The decision on the request will be postponed for one week.

There being no further business to come before the Board, the meeting was adjourned at 2:25 p.m.

* * * * *

MAY 7, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was out of the office all day. In the evening, Commissioner Evans attended the Foster Grandparent Recognition Banquet held at Russell School.

DAILY ADMINISTRATIVE MEETING

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

Quarterly Report

Chairman Evans signed the MT Department of Health and Environmental Sciences State Fiscal Year '92 MCH Block Grant Quarterly Report for the third quarter, January-March, 1992, contract number 320136. The report was returned to the Health Department for further handling.

Resolution No. 92-036

The Board of County Commissioners signed Resolution No. 92-036, a resolution revoking the covenant stating that Tract 2 of Certificate of Survey 1152 be used exclusively for agricultural purposes, as the

MAY 7, 1992 (Cont.)

owners of the property, Timothy and Julie Browne, desire to build a home on said agricultural parcel; the resolution becomes effective upon recording and credits the owners with an occasional sale exemption.

* * * * *

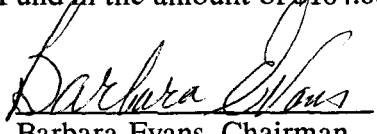
MAY 8, 1992

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

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond, naming Susan Bomstad as principal for warrant #230269, dated April 23, 1992, on the 9-1-1- Fund in the amount of \$104.00 now unable to be found.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

* * * * *

MAY 11, 1992Monthly Report

Chairman Evans 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 the month ending April 30, 1992.

Site Inspection

In the morning, Commissioner Stevens accompanied County Surveyor Horace Brown for a site inspection on the request to alter a portion of O'Brien Creek Road.

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 (3/29 - 4/11/92) with a total Missoula County payroll of \$391,051.64. The Transmittal Sheet was returned to the Auditor's Office.

Warranty Deeds and Settlement Statements

The Board of County Commissioners signed three (3) Warranty Deeds and Settlement Statements from Missoula County to Jack I. and Billie L. Nelson for Lot 40, Lot 42, and Lot 46 in Hillview Heights #7, a platted subdivision in the City of Missoula, Missoula County, subject to the provisions set forth on each of the Deeds. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Agreement to Sell and Purchase

The Board of County Commissioners signed an Agreement to Sell and Purchase between Missoula County and Christy Trowbridge for Lot 8, Supplement Plat of Blocks 20 & 21, School Acre Tracts, Missoula County, for a total purchase price of \$12,000.00, subject to the contingencies set forth on the Agreement. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Service Contract

Chairman Evans signed the Mineral/Missoula County Service Contract, whereby the Mineral County Commissioners contract with the Superintendent of Schools of Missoula County to perform the duties required of County Superintendents for the period from July 1, 1992, to June 30, 1993, as per the terms

MAY 11, 1992 (Cont.)

set forth in the Contract. The Contract was returned to Rachel Vielleux, County Superintendent of Schools, for further signatures and handling.

Proclamation

The Board of County Commissioners signed a Proclamation, proclaiming Sunday, May 31, 1992, as UFCW's (United Food and Commercial Workers Union Local 1981) "Walk for a Cure" Day and support and urge all residents of the Missoula Valley to participate and support the "Walk for a Cure" to raise funds to benefit the research program of the Leukemia Society.

Other items included:

A request from Hardenburgh Outdoor Advertising Company to purchase/lease property on the east end of Frenchtown adjacent to I-90 for the purpose of erecting an outdoor advertising structure was denied by the Commissioners

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

* * * * *

MAY 12, 1992

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

* * * * *

MAY 13, 1992

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

Audit List

Commissioners Dussault and Stevens signed the Audit List dated 5/12/92, pages 6-35, with a grand total of \$59,821.26. The Audit List was returned to the Accounting Office.

DAILY ADMINISTRATIVE MEETING

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

Modification of Agreement

Chairman Evans signed a Modification of Agreement between Missoula County and the Montana Department of Health and Environmental Sciences agreeing to modify the terms of Section III (3) concerning the MIAMI Project (DHES No. 320211, as amended):

"(3) The source of 9.45% (\$4,015.08) of the funding referred to in (1)(a) and (b) above is a federal grant from the U.S. Department of Health and Human Services; all other funding for this agreement is from the state general fund."

The Modification was forwarded to DHES in Helena.

Warranty Deeds

The Board of County Commissioners signed three (3) Warranty Deeds and Settlement Statements from Missoula County to:

- 1) Jeanne M. McNulty, Missoula, Montana for Lot 2, Grantland 12, Missoula County;
- 2) Paul Spencer, Fridley, Minnesota for Lot 2, Michelle Addition, Missoula County; and
- 3) Paul Spencer, Fridley, Minnesota for Lot 3, Michelle Addition, Missoula County.

The documents were returned to Jim Dopp, Operations Officer, for further handling.

MAY 13, 1992 (Cont.)

Warranty Deed and Settlement Statement

The Board of County Commissioners signed a Warranty Deed and Settlement Statement from Missoula County to James R. and Sheila M. Nelson, Lolo, Montana for Lot 7, Block 3 of Amended Plat of Country Club Addition No. 2, Missoula County. The documents were returned to Western Title & Escrow Co. for further handling.

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

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:35 p.m. by Chairman Barbara Evans. Also present were Commissioners Janet Stevens and Ann Mary Dussault.

DECISION ON: Petition to Alter a Portion of O'Brien Creek Road located in W 1/2 of Section 28, Township 13 North, Range 20 West, and further described in the Road Book of the Missoula County Surveyor as: The Petition of O'Brien Creek Road declared a Public Highway 9-24-1901

Horace Brown, County Surveyor, said that he and Janet Stevens inspected the area, Monday, May 11th. The request was necessary in order to move the petition to the location of the where the road is located presently. In some cases the road was completely off where the petition originally existed. He recommended the petition be altered as requested. The only access available to the two property-owners in the area will not be included in the request.

The hearing was opened to public comment; there being none, the hearing was closed to testimony.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the petition to alter a "portion of O'Brien Creek Road, located in W 1/2 of Section 28, Township 13 North, Range 20 West, and further described in the Road Book of the Missoula County Surveyor as: The Petition of O'Brien Creek Road declared a Public Highway 9-24-1901, to provide better road alignment and safety. The motion carried on a vote of 3-0.

DECISION ON: PETITION TO VACATE ADDITIONAL PORTION OF OLD LOLO CREEK ROAD (POSTPONED FROM 4-22-92) LOCATED IN SECTION 35, TOWNSHIP 12 NORTH, RANGE 21 WEST FROM HIGHWAY #12 TO #12 NORTH OF PRESENT STATE #12, P.M.M. MISSOULA COUNTY, MONTANA

Horace Brown, Surveyor, stated the road is the only access for Champion International; their property lies on the north side of the road. He requested that the Board deny the vacation request.

Barbara Evans stated that she and Horace Brown inspected the area on April 20, 1992, and she concurred with his findings.

Ann Mary Dussault moved and Janet Stevens seconded the motion that the petition to vacate "Old Lolo Creek Road, located in Section 35, Township 12 North, Range 21 West from Highway #12 to #12 North of present State #12, P.M.M. Missoula County, Montana" be denied. The motion carried on a vote of 3-0.

CONSIDERATION OF: Rangitsch Addition No. 3 (Summary Plat)

Barbara Martens, Office of Community Development, explained that Rangitsch Addition No. 3 Summary Plat is a proposed four lot subdivision on approximately five acres. The lots are all slightly under one acre in size. The subdivision is located 322 feet east of Humble Road and north of an existing 30 foot road easement for the future construction of Sundown Road in the Target Range area. The property to the north and east has been developed for residential use similar to the proposal. To the west is agricultural land and to the south is additional land owned by the Rangitsch family and is used as hay and pasture land.

The OCD staff recommended that the summary plat for Rangitsch Addition No. 3 be approved subject to the findings of fact and the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. Cash-in-lieu of parkland shall be paid to the County park fund to meet the parkland requirement.
3. Grading, drainage, erosional control and road plans shall be approved by the County Surveyor.

MAY 13, 1992 (Cont.)

4. The developer shall pave Remington Court to County road standards.
5. The developer shall include a statement on the face of the subdivision plat and in each instrument of conveyance, which states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of Humble and Sundown Roads and may be used in lieu of their signatures on an RSID petition.
6. 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 further that the documents contain the applicable provisions required by these regulations and any other provisions upon which plat approval was based or conditioned, and that the provisions do not conflict.
7. The developer shall construct Sundown Road to County gravel standards. The developer shall apply dust abatement measures to Sundown Road, subject to the approval of the County Surveyor and Health Department.
8. The developer shall dedicate an additional 30 feet of right-of-way along Sundown Road, from it's intersection with Humble Road to the east boundary of Rangitsch Addition #3, to bring the right-of-way up to County standard.

The developer is requesting two variance requests to road standards.

- 1) The developer is requesting a variance to Article 3-2(5) -- All new subdivisions shall have paved streets and roads. The developer proposes to build Remington Court, the interior cul-de-sac road within the development to County gravel standards.

The Staff recommends that the paving variance for Remington Court be denied. The reasons for the denial are 1) that this subdivision is within the non-attainment zone designated by the City/County Health Department and 2) Article 3-2(5) requires that all new subdivision shall have paved roads and that this variance request does not meet the paving variance criteria found in the County Subdivision Regulations.

- 2) The developer is requesting a variance to Article 3-2(9) (1) and (2) -- The subdivider shall pave or initiate an RSID to pave the off-site roads. The developer would construct Sundown Road to County gravel standard with a provision to waive the right to protest a future RSID for the upgrading of Sundown Road.

The staff recommends that the paving variance for Sundown Road be granted subject to the following conditions: 1) Sundown Road shall be built to County gravel standards; 2) The developer shall be required to apply dust abatement measures to Sundown Road. Dust abatement measures shall be approved by the County Surveyor and the City/County Health Department (Condition #7) and 3) The developer shall waive the right to protest a future RSID for the upgrading of Sundown Road (Condition #5).

The hearing was opened to public comment.

Greg Martinsen, Martinsen Surveys, stated the developer would like to withdraw their request for variance #1 regarding the paving of Remington Court. He stated the developer agrees to pave Remington Court.

He also requested that Condition No. 5, which requires a waiver of protest for the upgrading of Humble Road, be deleted as the subdivision is not bordered by Humble Road.

Bob Rangitsch, developer, stated that he didn't want to commit to upgrading Humble Road. He said he has no plans to develop any of his property on Humble Road. He has agreed to pave Sundown Road which will access the subdivision.

Barbara Evans asked if a person would have to go down Humble Road to get to the subdivision?

Bob Rangitsch stated that next year he will pave Sundown Road so that the subdivision will be accessed by this road; Humble Road will not be used.

Ann Mary Dussault asked Barb Martens to address the question of including Humble Road in the RSID and whether this is consistent with what has been done with other subdivisions in the area.

MAY 13, 1992 (Cont.)

Barb Martens stated that the same requirement was placed on Schwenk Addition No. 2. The waiver was for the whole subdivision even though only a few lots actually benefitted from the upgrading; the RSID was based on benefit.

Barbara Evans asked if the OCD staff would be comfortable modifying this condition to apply when other subdivisions are done in the area?

Barb Martens stated that the condition does not require upgrading at this point in time; it is a waiver should the upgrading occur in the future. Wording could be changed to reflect that the RSID would be based on the benefit.

Horace Brown, County Surveyor, stated that when the developer upgrades Sundown Road to Glen Road, the residents will be able to access the subdivision this way; they will not use Humble Road. If the wording is changed to "based on benefit" that would take care of the issue.

A general discussion ensued relative to the RSID being based upon the benefit by each resident. If the condition was worded in this way, the residents of the subdivision would not be subject to the RSID for the paving of Humble Road as they would access the subdivision via Sundown Road. However, if the road was not built, then the residents would be subject to the RSID to pave Humble Road.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve Rangitsch Addition No. 3 summary Plat subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. Cash-in-lieu of parkland shall be paid to the County park fund to meet the parkland requirement.
3. Grading, drainage, erosional control and road plans shall be approved by the County Surveyor.
4. The developer shall pave Remington Court to County road standards.
5. The developer shall include a statement on the face of the subdivision plat and in each instrument of conveyance, which states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of Humble and Sundown Roads based on benefit and may be used in lieu of their signatures on an RSID petition.
6. 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 further that the documents contain the applicable provisions required by these regulations and any other provisions upon which plat approval was based or conditioned, and that the provisions do not conflict.
7. The developer shall construct Sundown Road to County gravel standards. The developer shall apply dust abatement measures to Sundown Road, subject to the approval of the County Surveyor and Health Department.
8. The developer shall dedicate an additional 30 feet of right-of-way along Sundown Road, from its intersection with Humble Road to the east boundary of Rangitsch Addition #3, to bring the right-of-way up to County standard.

The motion carried on a vote of 3-0.

A discussion ensued relative to the variance for the waiver to pave Humble Road. The developer requested that the variance for the paving of Remington Court be deleted; they have agreed to pave both Remington Court and Sundown Road within the next year. After the subdivision is approved, the developers have two years to pave Sundown Road.

Ann Mary Dussault asked Bob Rangitsch if everything goes according to his plans, at what point in time would he look at extending and then paving Sundown Road? She asked what could happen to make this not take place.

Bob Rangitsch stated that he planned to pave Sundown Road within the next year. He said the paving is in his plans; nothing will deter it. He does not want to be committed to paving Humble Road; there will be no benefit to the subdivision.

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A question arose whether the second variance request relative to the paving requirement of Sundown Road was necessary. It was concluded that the developer will pave the road within one year; the request for a two year variance on the paving requirement is not necessary.

Janet Stevens moved and Ann Mary Dussault seconded the motion to modify the original motion to approve Rangitsch Addition No. 3 Summary Plat subject to the following amended conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. Cash-in-lieu of parkland shall be paid to the County park fund to meet the parkland requirement.
3. Grading, drainage, erosional control and road plans shall be approved by the County Surveyor.
4. The developer shall pave Remington Court and Sundown Road to County road standards.
5. The developer shall include a statement on the face of the subdivision plat and in each instrument of conveyance, which states that acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future RSID for the upgrading of Humble and Sundown Roads based on benefit and may be used in lieu of their signatures on an RSID petition.
6. 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 further that the documents contain the applicable provisions required by these regulations and any other provisions upon which plat approval was based or conditioned, and that the provisions do not conflict.
7. The developer shall dedicate an additional 30 feet of right-of-way along Sundown Road, from it's intersection with Humble Road to the east boundary of Rangitsch Addition #3, to bring the right-of-way up to County standard.

The motion carried on a vote of 3-0.

HEARING: PETITION FOR ANNEXATION TO FRENCHTOWN RURAL FIRE DISTRICT (TRACTS A1-A-7 OF COS 1896 -- GENECO CORP.)

Scott Waldron, Fire Chief of Frenchtown Fire Department, explained that a petition has been 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 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.

The area to be annexed is described as follows: Tracts A-1 through A-7, inclusive, of Certificate of Survey No. 1896, located in the SW 1/4 of Section 5 and the SE 1/4 of Section 6, Township 14 North, Range 22 West, P.M.M., Missoula County, Montana.

He said the property lies within an area that is presently surrounded by private residences. The Board of Trustees recommends that the Frenchtown Fire District annex this into the district; it is presently receiving fire protection from the department.

The hearing was opened to public testimony; there being none, the hearing was closed to public comment.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the request for annexation into the Frenchtown Rural Fire District described as Tracts A-1 through A-7, inclusive, of Certificate of Survey No. 1896, located in the SW 1/4 of Section 5 and the SE 1/4 of Section 6, Township 14 North, Range 22 West, P.M.M., Missoula County, Montana. The motion carried on a vote of 3-0.

HEARING: Amendments to Fireworks Stand Regulations

Bill Reed, Assistant Chief of Fire Marshall from Missoula Rural Fire District said the State Administrative Rules regarding fireworks stand regulations have been amended. The changes within the resolution incorporate those amendments in the Administrative Rules into the County policies.

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Horace Brown asked if the 30 foot setback requirement was from the right-of-way or from the road itself?

Bill Reed stated there was no specification in the resolution.

Michael Sehestedt, Deputy County Attorney, stated that the interpretation of the setback would be from the main traveled road.

The hearing was opened to public comment.

Scott Waldron, Fire Chief of Frenchtown Fire Department, voiced his support for the adoption of the resolution.

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

Ann Mary Dussault asked if the Board is being asked to adopt the resolution as an emergency resolution so that they can become effective immediately?

Mike Sehestedt stated that he would like to see the Board adopt the resolution as an emergency to become effective immediately and treat it as a first reading; the second reading of the resolution for permanent adoption will be in two weeks on May 27th.

Ann Mary Dussault moved and Janet Stevens seconded the motion that the amendments to the resolution for the Fireworks Stand Regulations be adopted under the emergency authority of the Board of County Commissioners. The motion carried on a vote of 3-0.

The second reading of Resolution 92-037 will be in two weeks on May 27, 1992. Notices of this will be posted in three different places in the courthouse.

Resolution No. 92-037

The Board of County Commissioners signed Resolution No. 92-037 which reads as follows (the amendments are underlined):

FIREWORKS STAND REGULATIONS

WHEREAS, it is in the public's best interest to adopt the following regulations governing the sale of lawful fireworks as enumerated in MCA 50-37-105, and to incorporate by reference Title 50, Chapter 37, titled "Fireworks," of the Montana Code Annotated, as amended; and

WHEREAS, the Board of County Commissioners has consulted with Missoula Rural Fire District personnel concerning these regulations;

NOW, THEREFORE BE IT RESOLVED, that the Missoula County fireworks Stand Regulations are hereby set forth as follows:

1. All potential sellers of fireworks must obtain a Zoning Compliance Permit from the City-County Zoning Officer. This permit will be necessary in order to obtain a permit from the Missoula County Treasurer's Office. Permits must be prominently displayed in stands.
2. Fees assessed for the operation of a fireworks stand are \$5.00 per week, or fraction thereof, and shall be payable at the time of issuance.
3. Fireworks stands thirty (30) feet or less in length must have at least one unobstructed exit and one two-gallon pressurized water extinguisher or charged garden hose inside the stands; stands over thirty (30) feet long shall have at least two (2) of these extinguisher or hoses and two (2) unobstructed exits as remote from each other as possible.
4. No one under eighteen (18) years of age shall be employed for the purpose of selling fireworks.
5. No smoking shall be allowed within the fireworks stand. At any place where permissible fireworks are sold or displayed, a sign reading "NO SMOKING" must be posted with letters at least four (4) inches in height and 1/2 inch in stroke where customers are most likely to read it.
6. Fireworks shall not be discharged:

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- a. Within the exterior boundaries of a state forest, state park, or state recreation area;
 - b. Within one hundred (100) feet of a fireworks retail sales location;
 - c. From, inside, or toward a motor vehicle;
 - d. In the vicinity of another person or group of people OR ANY ANIMAL in a manner likely to expose them to the risk of injury; or
 - e. In any dedicated County park or any County recreation parcel, except for the Fourth of July celebrations at Fort Missoula and Missoula County Fairground, and unless otherwise specified.
7. Retail sale of fireworks shall be conducted from stands located at least 300 feet from a church or hospital, 50 feet from any flammable liquid dispensing device or installation, 50 feet from other inhabited buildings, and 30 feet from any public roadway. The Zoning Officer may grant a waiver of the applicable setback in cases where both the setback and 50-foot clear zone cannot be met, with the concurrence of the Missoula Rural Fire District Chief and County Surveyor or their designees. The waiver shall be the minimum necessary to accommodate the clear zone. Any adverse administrative determination under this paragraph may be appealed to the Board of County Commissioners upon such notice and terms as they may set at their discretion.
 8. Parking of vehicles used to transport Class A or B explosives or flammable and combustible liquids is prohibited within 100 feet of a retail fireworks stand.
 9. All weeds, dry grass, and combustible material shall be cleared for a minimum distance of 25 feet in all directions from the stand.
 10. Electrical wiring shall be in a safe condition, and if found upon inspection to be unsafe shall be upgraded to comply with the applicable provisions of the national Electrical code adopted by the building codes bureau of the Department of Commerce.
 11. Open flame devices of any kind are prohibited in retail fireworks stands, and within 25 feet of the stand.
 12. Fireworks shall be displayed in such a manner that they are out of reach of the general public.
 13. No one but employees shall be allowed inside the stand.
 14. All fireworks stands will be subject to inspections by an appropriate rural fire district.
 15. These regulations shall be posted in the stand along with the permit.
 16. Fireworks may only be sold from June 24th to and including July 5 in any year.
 17. After dismantling the stands, the sites must be completely cleaned up.
 18. A violation of MCA, Title 50, chapter 37, Part I is punishable by a fine of not less than \$100 nor more than \$500 or, in the case of individuals, the members of a partnership, and the responsible officers and agents of an association or corporation, by imprisonment in the County jail of a period not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment.
 19. Applicants for permits must provide certificates of insurance. Bodily injury and property damage liability coverage shall be provided with limits or not less than \$100,000 combined single limit (CSL).
 20. In addition to the penalties stated above, a conviction for violation of this resolution may also result in denial of license in the future. In order to initiate denial, the County Attorney's Office, at the request of the Sheriff or Fire Chief must give the licensee written notice of the violation and of a hearing before the County Commissioners not less than three (3) days before the hearing.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners has adopted these regulations to govern fireworks stands. This resolution shall remain in effect until or unless the state

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or federal government changes the laws in regard to the sale of fireworks or until it is superseded by another resolution of the Board of County Commissioners.

HEARING: Resolution of Intent to Establish the Greenough-Potomac Volunteer Fire Department & QRU Fire Service Area

Barbara Evans explained that a petition was received by the Clerk and Recorder's Office to create the Greenough-Potomac Fire Department and QRU Fire Service Area.

The petition for creating the fire service area has been checked and verified. The petition contains signatures of more than 30 owners of real property in the proposed service area.

The Board of County Commissioners adopted a Resolution of Intent Establishing the Greenough-Potomac Volunteer Fire Department and QRU Fire Service Area on April 1, 1992.

Michael Sehestedt, Deputy County Attorney, explained the procedure that would be followed by the Commissioners. Under the law, upon receipt of a petition signed by at least 30 owners of real property requesting the establishment of a fire service area, the Commissioners are obligated to pass a resolution of intention to create such a district and to set a date for public hearing. They have received a petition and today is the date that has been set for the hearing on that resolution. What the Commissioners will hear at this hearing are pros and cons as well as hear requests for alterations of the boundaries. At the close of hearing, the Commissioners may make such adjustments in boundaries and the proposed fee structure and proposed governance structure as they deem appropriate in light of the testimony received. They will then adopt the resolution creating the fire service area. It may be a very small fire service area or it may not be. Following that, the resolution will not be effective for sixty days following the Commissioner's action; through that period of time, the proposed creation of the fire service area can be defeated by those people still in the district as adopted by the Commissioners via a protested 50% or more of real property owners. The Commissioners, by adopting a resolution of intent and setting this hearing have not taken any position on merits or boundaries or anything else; they have simply responded as provided by Statutes to a petition that has been submitted in accordance with Statute. They can at this hearing consider the appropriate boundaries, the manner in which the district is to be governed and the proposed initial fee structure. The hearing also provides the opportunity for everyone to air their feelings about the fire service district. The Commissioners have the ability to continue the hearing from meeting to meeting to gather further information. The protest period of 60 days would not start until there is an actual adoption by the Commissioners of the volunteer fire department at Greenough-Potomac and the QRU Fire Service area.

The hearing was opened to proponents of the proposed fire service area.

Charles Ray Doty, resident, spoke in favor of the proposed fire service area. He gave some history of the district in the Potomac area. Over the years he has been instrumental in trying to get a rural fire service area started. He feels the present volunteer fire department and QRU is functioning very well and have progressed over the years. He said the volunteers and donations have declined in the last couple of years.

Dale Poff, resident of Bear Creek Road, stated he has been involved in the fire department and is a QRU person on the medical team. He is in favor of the proposed fire service area. He said that there has been much progress made in the department and that it is a good company with many dedicated people.

Dale Mariucci, resident, voiced his support for the fire service area and the boundaries. He talked about the progress the fire department has made over the years and stated the department is necessary and that everyone should have fire and medical protection.

Don Hammersley, resident of the Potomac-Greenough area, spoke about the response time of the fire department to get to the area above Bear Creek; he said he felt the response time of the department was very fast. He said the only concern he had was to insure the money raised would be set aside strictly for the Greenough-Potomac Fire Department. He said the only information he has received relative to this issue is one postcard.

The meeting was opened to opponents of the proposed fire service area.

Rodney Vannoy, owner of property and resident of the area since 1935, stated that he is opposed to the proposed fire service area. He said that he is assessed on his taxes to pay the State Forester for fire

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protection of forested land. He wishes to be outside the proposed fire service area. When the petition started, he said it was supposed to be strictly volunteer.

Walter Vannoy, resident, stated that he is not opposed to the fire district being established. He addressed the Montana State Statutes regarding fire service areas, Part 24, Numbers 3 and 4. It states in that Statute that the Board may change the boundaries of the fire service area based upon the testimony of the residents of the proposed district. He said the petition he presented to the Commissioners is requesting a boundary change to be excluded from this area. The petition contains 95% of the 30 landowners within the area that asked to be excluded. He said in a meeting with representatives of the proposed Greenough-Potomac Fire District, the petitioners agreed that they would not oppose the district if they were excluded. The boundaries have been drawn. Four exemptions have been made within the excluded area: 1) all State and County roads; 2) Clearwater Bar and Cafe; 3) Greenough Cattle Company west of Highway 200; 4) 40 acres with no structures; this acreage is exempted due to the layout of the boundary line.

He said that within the excluded property is approximately 40 sections and 44,800 acres. Much of this property is Champion International and Burlington Northern and Forest Service land. There are no structures on these lands. He said they have asked for an exemption which reaches to the Seeley Lake Fire District boundary to the north; to the east to the Powell County Line. He said in this area there are 19 trailer homes, 9 structures and two businesses.

Dan Christiansen, resident, spoke in opposition to the creation of the district. He presented a petition containing signatures from landowners located in the area west of Bear Creek Road from the County Road maintenance shop down to Bear Acres. He showed from a map the area to be excluded from the proposed fire district. He stated that the reasons for the petitioners not wanting to be included in the district is the distance from the fire station; it is not cost-effective for the residents to be included.

Bob Reinoehl, resident, voiced support for Walter Vannoy's comments.

Tad Kolwicz, resident, employed with the Department of State Lands, stated that the Department has an administrative site in the Clearwater State Forest located in Section 36, Township 15, Range 14. He said they have petitioned and were accepted to be a part of the Ovando Rural Fire District. Therefore, he requested they be exempted from the fire service area.

Julie Hacker, resident of Potomac, representing the Case Ranch Company, stated that she will present the Commissioners with a petition to exempt all of the lands owned by Case Ranch Company from the fire service area. She asked what structures will be covered by the fee imposed within the proposed fire service area? She asked why the QRU is incorporated within the fire service area? She feels the QRU should be separate from the proposed fire service area. She stated that collected along with their taxes each year is a substantial amount of money that goes to the protection of lands from wildfire. She also voiced concerns relative to the proposed fee structure. She stated that there is not much grass-root support for the fire department; this is shown by the fact that financial support has dwindled in the last few years. She voiced concerns relative to the condition of the roads; they are not maintained by the County. Because of the condition of the roads, many residents will not be able to see a benefit from the proposed district. She asked the Board to exempt the Case Ranch Company lands from the district.

Dave Slaughter, resident of Potomac, stated that he resides up on a hill very difficult to access. He stated that the response time of the fire department would not be very good for his residence. He also voiced concerns relative to the fee structure. He stated that more and more taxes are paid in, but the residents are getting less and less for the taxes. He voiced disapproval of the process by which the Board went through to hear the petition. He said the way this process is structured, the majority is not being heard; rather, the minority is being favored.

Mike Sehestedt stated that the Legislature has set the rules. The Commissioners are compelled by State Law when in receipt of a petition by the majority of landowners, to go through the hearing process. Even if the district is created by the Commissioners, the majority can defeat the action.

Janet Stevens stated that the petition to create a fire district contained approximately 100 landowner's signatures.

Mike Kemp, residing adjacent to the fire station in Potomac, voiced concerns relative to the ability of the fire department to save his property in the event of a fire. He stated that he resented the letter sent by the fire department demanding money.

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Vera Cahoon, resident of Potomac, voiced concerns about the law not being specific relative to the fee structure. She stated she does not want the indebtedness on her property from the proposed fire district.

She said due to the distances and condition of the roads, she felt the fire department would not save anything of value. She stated that she is totally against the proposed fire district because it does not answer all of the questions. She spoke in favor of the Quick Response Unit.

Paul Nelson, resident of Jordan Addition, stated that the fire department should be volunteer; the people should take care of it by themselves by donation.

Faith Foster, resident and volunteer of the QRU, voiced concerns about the honesty of the people involved in the proposed fire district. She stated that she wanted nothing to do with it.

Russ Parrett, Fire Chief of the Greenough-Potomac Fire Department, representing the Greenough-Potomac Fire Department Board of Trustees, read a prepared statement from the Board of Trustees which reads as follows:

"Saying a Fire Department is a bad idea is like saying motherhood, apple pie, and baseball are un-American. This simply is untrue. Every American, Montanan, resident--local or otherwise, visitor, business, public employee, on our highways, or church members of this area, has right to expect basic emergency services from the closet resource. This is a right closely akin to the Bill of Rights of the Constitution. We all expect when we have a problem to pick up that telephone and dial 9-1-1, walk out the door and find the medic or fire truck on it's way to our problem. Just within the area of the proposed secession from the present fire area, there are approximately 20 homes, three camp grounds, three fishing and rafting access areas, two restaurants and stores, one operating gas station, one highway truck inspection station for the Highway Patrol, one State Highway maintenance yard, two lakes, one flea market, one trailer court, one carpet and second hand store, one telephone pole manufacturing yard and two churches. The users of these public accessible facilities not only have a right to their emergency needs being rapidly handled, but expect it. And I don't believe the operators of these facilities for the owners or the property owners in the area have a right to deny that to the numerous people that use those facilities. Fish, Wildlife and Parks for instance, just gave statistics indicating that there are 28,000 visitors; recreation visitors just to the area of the Blackfoot River Corridor. The restaurants, gas station, flea market, carpet and second-hand store all count on these people stopping into their stores and spending money. These people again have an unquestionable right to expect their emergency needs to be taken care of. Just as when any of us go into any community, we just naturally presume there is a Fire Department and emergency medical will be there for us. Other communities are providing for us when we visit them, just as we need to provide not only for ourselves, but for our visitors. This doesn't take into account the thousands of people that travel up and down the highway; a major state highway between Missoula and Great Falls. Numerous trucks travel up and down the highway at excessive speeds, which endanger all of us. We have responded to many traffic accidents some involving large trucks. We've provided effective emergency assistance involving trucks and car accidents, heart attacks in homes, attempted suicide, wildland fires, structure fires, and so on, just within the last two years in the proposed area of cessation.

Now, with regard to specific resources, and their location in this area, there has been some very misleading information. Within the Greenough area, there are two trained medics that are available most of the time, with additional medics just a short distance away. There is one well-equipped Class A structure fire engine in Greenough and another one in Potomac. At this very moment the Board of Trustees is working out the details for acquiring two additional water tenders to supply backup to these engines.

The next nearest resources would be of course, Ovando, which is 13 to 20 miles away, or Seeley Lake which is 13 to 20 miles away. In both cases, these are approximate figures depending where the problem is. The engine from Greenough, into any part of Greenough, is anywhere from two miles to seven miles away. This is obviously the nearest and fastest resource for this area. Yes, other departments might come if called. Seeley Lake will send an ambulance down to pick up the pieces. They have indicated they will not send fire engines out of their area.

With regard to medical aid, the Seeley ambulance, Life Flight, Arrow Ambulance out of Missoula will come to most anywhere in our area and provide the backup that we need or the transportation to the hospital. This does not provide the closest resource for medical aid as time is the critical factor in both medical situations and fire. We are blessed with having many additional resources surrounding our area that can come and help after the fact. The necessity

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being that we get people on the scene as quickly as possible, to render life-saving aid whether it be fire or a medical emergency.

In an extensive visit with the 9-1-1 supervisor, Surrey Latham, she has indicated they are not at all interested, and in fact she is adamantly opposed to having a fire area that has any islands of no response within its borders. With that in mind, we have drawn a map that has squared off the boundaries but effects no ones property. This map shows the facilities used by the public and the river camp grounds and rafting and fishing access, highways, fire stations, etc.

The 9-1-1 Center has recently spent many thousands of dollars upgrading its dispatch system to a computer-aided dispatch (CAD). When someone makes a call, this system will automatically key up the nearest resources within that area. This is done by area. If a person in our area calls in, with any type of problem, that system is automatically going to show Greenough-Potomac Fire Department to respond to that call. They will punch it out on the pager system, at that point it will be up to us to say back to the 9-1-1 center that we are forbidden to go to a call at that particular location; at that point the call will be dropped. If someone has told the dispatcher that they would like someone else to respond, other than the Greenough-Potomac Fire Department, then the dispatcher will have to manually override the computer and attempt to dispatch someone else. If that other department wishes to answer the call they might. This is very, very time-consuming; something the dispatchers themselves have indicated they do not want to do because it is very involved, and of course, the supervisor has indicated they are not a bit interested in that type of a program.

With regard to some of the other areas, particularly, Upper Bear Creek on the west end of the District, there are some who have indicated they feel they are too far away from the nearest fire station to receive an equitable service to their area. I don't believe that that is a correct assumption. I believe that we can respond into there in a very reasonable time period. Now that we have an all-wheel drive engine, an all-wheel drive structure engine, for the west end stationed in Potomac, we can get there year-round. It is approximately six miles from Potomac into Bear Creek, now this is give or take a couple of miles, depending how far up Bear Creek we need to go. The next nearest resources of course, to that area would be the Missoula Rural Station #4 in Piltsville, which would be approximately 13 miles into Bear Creek. They presently have contracts with four residents in that area, that would be null and void if this area is created. However, when this service area is created, I have received some assurance that we will be able to sign mutual aid agreements with the surrounding fire departments. In this case, Missoula Rural will give us backup into the west end of Potomac. This will of course be a vital resource that the residents have a right to expect.

At this point in time, Missoula Rural Board of Trustees have opted not to respond into our area, because we are not a legal entity that can sign a mutual aid agreement. I recently discussed this with their new management team and they were asked to take it to their Board of Trustees again last night for re-evaluation. I don't know at this point what their discussions were. In the long range scheme of things, some land has been offered to the fire department at the bottom of Bear Creek to establish a fire station. I think it is the intent of the Board of Trustees within this fire department to accept that offer at a future date. I think the key here would be when we can afford to build a station in that area, I believe we will have the equipment and manpower to man it, but not the fund to build it at this time. That would be a very logical expansion in that area. Bear Creek is one of the more rapidly growing areas, population-wise.

With regard to medics in that area, there are presently two medics living in Bear Creek and a third one that lives just a half mile outside of Bear Creek. This provides good medical aid coverage from our quick response unit, anywhere in the western part of the district. Of course, they will be backed up by other medics and Arrow Ambulance or Life Flight.

If I may regress a moment and talk about this idea of the ambulance services and Life Flight. These are transportation units. These are not rescue units. If they are the first on the scene, in some cases they can provide some limited amount of rescue. The key in all medical situations is time. We need to have someone at the scene taking care of that patient just as soon as humanly possible. All of our medics carry extensive trauma kits; oxygen and some extrication equipment. Of course our engines have more equipment on them. Life Flight does not carry any of this. Many of us depend on Life Flight out there to provide transportation as quick as possible into the hospital. They can come during the day to most anywhere they can see to land and they will do so, it is up to us to get a patient to them. At night they will only land in very few places; if I'm not mistaken, there are only four localities that they will land in, in the entire

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district. Again, it is up to us or an ambulance to bring that patient to them for further transportation to Missoula. The key here again, is time.

This fire department was created two years ago by some very dedicated people that saw the need. It has done remarkably well in this growth, in fact, way beyond the expectations of not only us, but the critics around who said we couldn't do it. We now have two very good fire engines and two stations. The Board is considering or rather working out the details right now on the addition of two water tenders; one of which will be a combination water tender/wildland engine. We operate six medics, 18 firemen (this number fluctuates at times), and we've had tremendous financial support from the community in getting it going. That financial support is dropping off as was expected, and we are now at a point where we need to fund this another way. The dedication within our fire department and Board to volunteerism, in providing the services to the community that we all live in, has been just overwhelming. For instance, just last night a new member to Board of Trustees and a fireman suggested the creation of a roster indicating when volunteers would be available for duty. This is a matter of commitment--of people donating their time, ahead of time, that they will be available. This is dedication to public service. This is what our volunteers have been all about since the beginning; a tremendous group of people providing emergency services to our community. Our firemen and medics donate thousands of hours a year to re-furbishing buildings, re-furbishing fire engines and equipment, putting in numerous hours training both here and away. This is the true spirit of volunteerism at its finest. I would ask that you approve this service area."

Regarding the concerns expressed about the insurance, he said the department has a plan where they have been collecting water cisterns; eight are in storage and will be buried throughout the district providing storage tanks for water in more critical areas. He also stated that it takes a set amount of people to support the fire department.

Barbara Evans asked if Mr. Parrett could say unequivocally to the folks who are protesting their inclusion in the fire service area, if they can be provided protection from loss of their structures given the distance problem?

Russ Parrett stated that the department is volunteer. He said the response has been excellent relative to volunteers responding to the calls. He said with the addition of the equipment that is being contemplated at this time, the department will have the immediate backup needed. When the district is set up, the department will be in a position to sign mutual aid agreements with Missoula Rural Fire and Seeley Lake; these will give the department further backup. He said with all of these factors, he stated that he could say unequivocally the department can provide the necessary protection.

The meeting was closed to public comment.

A question was raised relative to the rate structure. A structure is defined as a household or family dwelling which includes out-buildings. The proposed rate for family dwellings is \$60.00 a year. If there are no structures, there is no fee. The proposal has a cap on the rate to prevent the rate from increasing.

Julie Hacker asked if she could receive a copy of the complete proposal with the specific details. She stated that she had only received a postcard of notification and a demand letter asking for money.

Russ Parrett stated that there have been public meetings at the Potomac community center numerous times.

Irene Nelson, acting secretary for the Fire Departments Board of Trustees, stated that they have tried to send out mailings to as many people as they could; but because of the area, it was very difficult.

Barbara Evans asked that a map be provided of the original proposed boundaries as well as the petitions asking not to be included in the district.

Janet Stevens stated that all of the petitions would need to be compiled so that it could be figured who was where on the map in relation to the proposed district.

Michael Sehestedt said they have received a petition from Walter Vannoy; individual requests have also been received. All residents need to be put on a map to determine what the Board wants to do with the boundaries. He recommended that if the Board wishes to make boundary modifications based on the testimony, the hearing on the issue could be continued for two weeks until May 27th.

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Ann Mary Dussault asked Russ Parrett if there are no structures on a parcel of property, the property will not be assessed? She asked if there are several structures on the property, the property will be assessed as one unit of \$60.00?

Russ Parrett explained that if there are no structures there is no fee. If there is more than one residence to a parcel of property, the fee is \$60.00 per family dwelling. For instance a trailer court; each family dwelling is \$60.00. If there is a parcel of property with one residence and several outbuildings, it would be assessed \$60.00. He stated that each public business would be assessed \$100.00; a ranch is not defined as a business.

Ann Mary Dussault asked Walter Vannoy if he was not included in the fire district, where he would expect to receive emergency response from?

Walter Vannoy stated that for the 35 years he has lived in the Greenough-Potomac area they have never lacked for a response; they are in the Seeley Lake fire and ambulance district. The neighbors respond as well. He said it would be faster to call Life Flight if the emergency merited it; there is an air field adjacent to his property.

Ann Mary Dussault asked how fees are assessed for the State lands? Is it per acre?

Walter Vannoy stated that the State Forest Lands Assessment is for fire protection other than structures.

It was stated that a minimum of 75 cents per acre is assessed. A larger landowner would be assessed more.

Ann Mary Dussault asked Mr. Kolwicz if he would provide her with a fee schedule for the protection of classified forest lands.

She asked Scott Waldron, Frenchtown Fire Chief, whether or not an organized fire district would enter into any kind of backup agreement with an entity that is not organized?

Scott Waldron stated that there are some legal considerations that need to be addressed; such as if they can legally enter into an agreement with an entity that is not organized. Problems tend to exist for the larger entities. Many people moving into an area expect to dial 9-1-1 and get service. The mutual aid entity many times get pulled into a situation where they become the number-one responder. He said if they respond to an out of district call, a greater fee is charged. The department is obligated to respond, but the people are obligated to pay. The fire department has resolved this issue in this manner.

Michael Sehestedt stated there is no problem legally with the district. A fee service area is organized differently than a fire district. If the petition is approved as submitted by the Board of County Commissioners, a Board of Trustees would oversee the fees, etc. As the fire department exists now, it is not considered a legal entity. A legal entity therefore does not exist with the authority to contract with the absence of an organization. It is possible for individuals to contract for services with other fire districts, but it gets too complicated; which one do you call?

A general discussion ensued relative to the State Forest Lands Protection and if the Department would accept payment for structure protection. The Department does not accept money or provide for structure protection. When a structure contributes to the spread of a forest fire, the Department would work with a structure in this case. As far as internal entry or rescue work, it is beyond the scope of the Department's training and equipment.

Walter Vannoy stated that he said he had talked with a Seeley Lake Fire Department official relative to the 9-1-1 Center. He said that 9-1-1 is in the process of installing a system that would assign each residence state-wide a number. When the call is made, all the information about the residence, etc. will be on the computer screen. This is expected to be installed and running by next year. He said that this issue will not be a problem for 9-1-1 after this system is installed.

Janet Stevens moved and Ann Mary Dussault seconded the motion to continue the decision on the Resolution of Intent to establish the Greenough-Potomac Volunteer Fire Department and QRU Fire Service Area, until May 27, 1992. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the meeting was recessed at 4:35 p.m.

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MAY 14, 1992

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 Cogdill Addition No. 1, a resubdivision of a portion of Lot 38 of Dinsmore's Orchard Homes Addition No. Four, located in the NE 1/4 of the NW 1/4 of Section 30, T. 13 N., R. 19 W., PMM, Missoula County, with the owners of record being Otis L. and Dorothy N. Cogdill.

Agreement

The Board of County Commissioners signed an Agreement between Missoula County and the Montana Department of Transportation for the purpose of proceeding with the development of the Missoula Airport I-90 Interchange and related projects, review and approval of plans and designs, contract letting and administration, and construction inspection, subject to the conditions set forth in the Agreement.

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 services as described in the Employee Assistance Program Services Proposal dated February 3, 1988, with this proposal incorporated by reference into this Agreement, as per the items set forth, for a period of two years, with a fee of \$1.75 per County employee based on a count on July 1st of each respective year, with the fee of \$8,925.00 for the period beginning July 1, 1992.

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. for the purpose of providing a limited scope Employee Assistance Program for the Search and Rescue and Reserve Deputies of the Missoula County Sheriff's Department effective July 1, 1992, as per the four sections set forth in the Addendum, for a period of two years beginning July 1, 1992, and ending June 30, 1994, for a fee of \$500.00 per year effective July 1, 1992, with the maximum number of volunteers eligible for this service under this set fee is one hundred.

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

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MAY 15, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present in the afternoon. Commissioner Stevens was in Thompson Falls attending a Mental Health Board Meeting, and Commissioner Evans was out of the office until noon. In the evening, Commissioner Dussault was the "Graduation Dinner Speaker" for Leadership Missoula, which was held at Fairmont Hot Springs.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

* * * * *

MAY 18, 1992

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:

Certification of Acceptance for County Maintenance

Chairman Evans signed the Certification of Acceptance for County Maintenance for Frey Lane, Road No. L669, T. 13 N., R. 20 W., Section 14, Missoula County, a total of .101 miles. The Certification was returned to Bob Holm at the Road Department.

MAY 18, 1992 (Cont.)Resolution No. 92-038

The Board of County Commissioners signed Resolution No. 92-038, a resolution authorizing the development and submission of a grant application to the Economic Development Administration for funding consideration under section 302(a) of the Public Works and Development Act of 1965, as amended.

Plat

The Board of County Commissioners signed the Plat for Spring Meadows Addition, an amended rural subdivision of Bay Meadows Addition (vacated), Missoula County, located in the NE 1/4 of Section 21 and the NW 1/4 of Section 22, T. 14 N., R. 20 W., PMM, a total area of 52.90 acres, with the owner/developer being David Theisen.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement, dated July 1, 1991, between Missoula County and the Missoula Symphony Association for the purpose of sponsoring a cultural and aesthetic project, as per the terms set forth, for a twenty-four month period terminating on June 30, 1992, for a total amount of \$5,000.00.

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

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MAY 19, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was out of the office all day. In the afternoon, Commissioner Dussault spoke to a third grade class at Cold Springs School.

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 Country Crest No. 2, a subdivision of Missoula County, located in the SW 1/4 SW 1/4 of Section 11, T. 13 N., R. 20 W., PMM, a total area of 6.27 acres, with the owner being the Deschamps Family Corporation.

Agreement - Western Juvenile Detention Region of Montana

The Board of County Commissioners signed a statement agreeing to be included as one of the counties who together comprise the western region of Montana for purposes of planning and implementing services for detaining juveniles and agree to follow the Western Regional Plan for Juvenile Detention Services, as written and reviewed in May of 1992 as it pertains to the first year of service delivery and future planning. The Agreement was returned to John DeVore, Administrative Officer, for further handling.

Form Letter for Fair Vehicles

The Board of County Commissioners signed a form letter (To Whom It May Concern), recommended by the MT State Weight Station DOT officers, to be carried in the Fair trucks used for surplus pick up, etc. showing the vehicle identification number and stating that it is owned by the Fair Commission and used only for County business.

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

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MAY 20, 1992

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

MAY 20, 1992 (Cont.)Audit List

Commissioners Stevens and Dussault signed the Audit List dated 5/20/92, pages 6-40, with a grand total of \$137,464.47. 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. 92-039

The Board of County Commissioners signed Resolution No. 92-039, a resolution to alter a portion of O'Brien Creek Road located in the W 1/2 of Section 28, T. 13 N., R. 20 W., PMM, as shown on the exhibit attached to the resolution, to improve traffic safety and provide better road alignment.

Resolution No. 92-040

The Board of County Commissioners signed Resolution No. 92-040, a resolution annexing parcels of land described as Tracts A-1 through A-7 of COS No. 1896 - Geneco Corp., located in the SW 1/4 of Section 5 and the SE 1/4 of Section 6, T. 14 N., R. 22 W., PMM, Missoula County, to the Frenchtown Rural Fire District and are to be assessed a fire district levy along with other property already a part of said District.

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

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:35 p.m. by Chairman Barbara Evans. Also present were Commissioners Ann Mary Dussault and Janet Stevens.

BID AWARD: LEGAL ADVERTISING FOR FY'93

Barbara Evans explained from information received from Billie Jette, Centralized Services, that bids were opened May 18, 1992. A single bid was received for legal advertising from the Missoulian and is as follows:

1. Legal Advertising
 - a. Per unit first insertion: \$8.00; ('92 - \$6.00)
 - b. Per unit each subsequent insertion: \$6.00; ('92 - \$4.00)
2. Rule and Figure Work
 - a. Per unit first insertion: N/A; ('92 - \$8.00)
 - b. Per unit each subsequent insertion: N/A; ('92 - \$4.00)

The new pricing structure will be effective July 1, 1992. There are no discounts. The fiscal impact is \$800.00.

Ann Mary Dussault moved and Janet Stevens seconded the motion to award the bid for the legal advertising for Fiscal Year 1993 to The Missoulian in the amount of \$800.00. The motion carried on a vote of 3-0.

The meeting was recessed as the Board of County Commissioners and the meeting reconvened as the Planning and Zoning Commission. Present were Commissioners Barbara Evans, Ann Mary Dussault and Janet Stevens. Also present were members Horace Brown, County Surveyor and Wendy Cromwell, Clerk and Recorder.

HEARING: DEVELOPMENT REQUEST - ZONING DIST. #4 (MORGAN)

Zoe Mohesky, Office of Community Development, explained that Daniel Morgan plans to construct a single family residence, attached garage and barn as part of this request. The property is located in the SW 1/4, NW 1/4, Section 2, T12N, R19W, P.M.M. in Pattee Canyon in ZD #4. The proposed single family residence will be a two story home with a daylight basement on the southernmost elevation of the home. The total living area is approximately 5000 square feet with dimensions of approximately 55 feet by 40 feet for the main portion of the house. About eleven (11) feet will need to be excavated for

MAY 20, 1992 (Cont.)

the southwest elevation to pour the footings. This will be returned to a near-natural grade following construction. Four (4) feet will be excavated for the final home build-out.

An attached garage with dimensions of 37 by 47 feet and detached barn with dimensions of 30 by 60 feet will be constructed. Neither of these structures will require much excavation.

Upgrading of the existing road and grading for a circular driveway will occur but should not significantly change the topography. Several trees will be removed for this development. The applicant is working with a State Forester to manage the land.

The Planning Board held a public hearing on this request on May 5, 1992. No one was present opposed the proposal. The board recommended approval of the request.

The parcel meets the minimum lot size and the proposed use is permitted by Z.D. #4 regulations.

The hearing was opened to public testimony.

Jim McDonald, architect, stated that there will have to be trees removed during the road work process. This will provide a safer access to the home. The owners are going to work with the State Forester to develop a long range plan that will limit fire potential. Smaller trees as well as brush will have to be removed; the larger trees are less susceptible to fire. The materials used in the project will be natural as well as fire resistant and recyclable.

Wendy Cromwell asked about the restoration of plant life from the excavated areas to prevent erosion.

Jim McDonald explained that the plan is to remain as natural as possible on the project. They will replant native vegetation.

Ann Mary Dussault asked if they were working with the State Forester on the Wildland Urban Interface fire issue? She said that Missoula Rural Fire would work with them as well on a fire management plan.

Jim McDonald stated that they had contacted the State Forester to help with the fire plan.

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

Ann Mary Dussault disclosed that Jim McDonald was her brother-in-law, and asked the legal staff if there would be a conflict of interest.

Michael Sehestedt, Deputy County Attorney, stated that there would be no conflict.

Janet Stevens moved and Horace Brown seconded the motion to approve the request by Daniel Morgan to construct a single family residence with attached garage and barn located in the SW 1/4, NW 1/4, Section 2, T12N, R19W, P.M.M. in Pattee Canyon. The motion carried on a unanimous vote.

HEARING: DEVELOPMENT REQUEST - ZONING DIST. #4 (Blevins)

Zoe Mohesky, Office of Community Development, explained that Randy and Kathy Blevins plan to construct a single family residence, attached garage and upgrade an existing road as part of this request on the property described as a parcel of land located in the NE 1/4, Section 4, T12N, R19W, P.M.M., in ZD #4 in Pattee Canyon, further described as Tract 5B, COS No. 3969. The proposed single family residence will be a two story home. Total living area is approximately 3000 square feet with dimensions of approximately 42 feet by 46 feet. The southwest corner of the residence will be set into the hillside. About eight (8) feet in depth by fifteen (15) feet in width of excavation into the hillside will be necessary to set the residence into the hillside. There are no trees, only shrubs in the area, therefore, no trees will be removed or disturbed during the construction of the home and garage.

Access to the property is gained by an existing gravel drive off of Pattee Canyon road east of the homesite. Minor grading of the drive may be necessary to access the homesite.

The Planning Board held a public hearing on this request on May 5, 1992. No one present opposed the proposal. The Board recommended approval of the request.

The parcel meets the minimum lot size and the proposed use is permitted by Z.D. #4 regulations.

The hearing was opened to public comment.

MAY 20, 1992 (Cont.)

Horace Brown asked about the driveway and why it entered the road at an angle. He asked if it would be possible to make it come out at more of a 90 degree angle with the easement?

Jay Raser, representing the Blevins, stated that there is an existing driveway and culvert. They will be removing the old portion of the road or driveway. The road helps to keep the run-off from coming into the back of the building.

(At this time, Barbara Evans briefly stepped out.)

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

Horace Brown moved and Ann Mary Dussault seconded the motion to approve the request by Randy and Kathy Blevins to construct a single family residence, attached garage and upgrade an existing road on the property described as a parcel of land located in the NE 1/4, Section 4, T12N, R19W, P.M.M., in Pattee Canyon, further described as Tract 5B, COS No. 3969. The motion carried on a vote of 4-0.

The meeting was recessed as the Planning and Zoning Commission and the meeting reconvened as the Board of County Commissioners.

Ann Mary Dussault moved and Janet Stevens seconded the motion to accept the recommendation of the Planning and Zoning Commission relative to the proposed developments in Pattee Canyon described as the Blevins and Morgan projects. The motion carried on a vote of 2-0.

At this time Barbara Evans returned to the meeting.

HEARING: APPLICATION OF IDAHO TIMBER CORPORATION FOR TAX INCENTIVES FOR NEW & EXPANDING INDUSTRY

John DeVore, Administrative Officer, explained that an application had been received for consideration under the tax incentives for New and Expanding Manufacturing Industry made by Idaho Timber Corporation which is in the process of purchasing the Missoula Champion site from Montana Wood Specialties. The Idaho Timber Corporation plan is in line with that proposed by Montana Wood Specialties in terms of level of investment and number of jobs created in the manufacturing process. It is projected that 32 jobs will be created during the first year of operation, with 35-52 the second year and 75 to 100 in the third. This application meets both the statutory and policy parameters of the tax incentive program.

The hearing was opened to public comment.

Tim Melgren, former director of Montana Wood Specialties, voiced his support for the request by Idaho Timber Corporation.

Floyd Brown, Idaho Timber Corporation, explained that Idaho Timber 13 years old and has 11 eleven plants throughout the United States. They are primary and secondary manufacturers of wood products. He said the company plans to start with at least 20 employees. He asked for their request to be approved.

Ann Mary Dussault asked about the effects Idaho Timber would have on other businesses. She said the application asserts that the business would add value to the re-manufacturing services. She asked Floyd Brown what Idaho Timber envisioned occurring in the re-manufacturing business?

Floyd Brown explained that much of the current products made by Idaho Timber are going into the home center industry. The products include paneling, wood products, etc. Low grade materials are manufactured into high value items.

Janet Stevens asked about the salary range of the employees of Idaho Timber.

Floyd Brown stated that the salaries would be comparable to their Whitefish, Montana operation. The salaries range from \$5-\$10 an hour; the average salary is \$7.00/hour.

Hal Fraser, First Security Bank, spoke in support of the application and thanked the Board for continuing the Tax Incentive program.

MAY 20, 1992 (Cont.)

Chuck Drinville, past president of Montana Wood Specialties, spoke in favor of the application. He said the future of Missoula is value-added products. He said the process is to take pieces of wood that are lower in value and manufacturing them into greater value items instead of throwing them away.

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

Ann Mary Dussault asked about the process the Board needed to do. Does this application and resolution supersede the resolution for Tricon?

Michael Sehestedt stated that the resolution would supersede or continue the tax incentive agreement for business doing the described work with the described investment.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the request for Tax Incentives for Idaho Timber Corporation under new or expanding manufacturing industry in that the application meets both the statutory and policy parameters of the Tax Incentive Program. The motion carried on a vote of 3-0.

CONSIDERATION OF: WILD FLOWER HILLS (SUMMARY PLAT)

John Mangiameli, Office of Community Development, explained that Wild Flower Hills is a proposed five (5) lot, single family subdivision. Lots range in size from 1.85 to 8.81 acres. Currently there exists on Lot 5 a home owned by Rob Demarois. The total project covers 17.34 acres. The proposed subdivision is located in the W 1/2, NW 1/4, SE 1/4 of Section 4, T12N, R19W on the northwest facing slope of Mount Dean Stone. All lots will access onto private roads.

Criterion 1: NEED -- The need for subdivisions within Missoula is a function of the market. The OCD does not and cannot evaluate subdivisions based upon this criterion.

The attached memo by Doris Fischer of the OCD discusses compliance with the Urban Comprehensive Plan. Development at the proposed site should be sensitive to the constraints established by the natural environment and the potential impact of any newly created "built" environment.

The zoning for this area is CRR-3. This zone proposes a maximum density of 4 dwelling units per acre. The credibility of such a zoning designation at this site is questionable. This is reflected in the density of one dwelling unit per 3.5 acres proposed by the developer.

Based upon the resource values of this area Missoula (see criterion 6), any future subdivision proposal within Wild Flower Hills that would unduly harm either wildlife or visual resources would not meet with the OCD's approval.

Criterion 2: EXPRESSED PUBLIC OPINION -- A public hearing is required for this summary plat, however to date no one has commented on this proposal.

Criterion 3: EFFECTS ON AGRICULTURE -- This subdivision will have little to no effect on agriculture.

Criterion 4: EFFECTS ON LOCAL SERVICES --

Roads - The roads within this subdivision are private. The County does not maintain any of these roads.

Horace Brown the County Surveyor has no comment.

Water system and Sewer - The developer proposes individual wells and septic systems. Individual homeowners will pay for the installation of water and septic.

The proposed subdivision is located approximately 2000 feet from the nearest water system.

The subdivision packet does not state the distance to the nearest municipal sewer system.

Solid waste - BFI of Missoula will provide solid waste collection for this area.

Utilities - Electrical, natural gas and telephone will be in place during 1992.

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Fire - This subdivision lies within the jurisdiction of the Missoula Rural Fire Department.

No hydrants are available.

School - The developer states that 3 Elementary students and 3 High School students may eventually reside within this subdivision.

Parks and Recreation - The developer desires that cash-in-lieu of parkland dedication be accepted.

The Staff recommended that the developer's request be approved.

Other - On June 25, 1986, the City Zoning Board of Adjustment voted to approve a request "that the variance request from the paving requirements be granted." As stated in the attached memo by Nick Kaufman, dated 5.23.86, most of the driveway lies within the City limits. A finding of hardship was based upon the notion that a paved driveway would have to be torn up and be replaced by a city standard roads at the time Mansion Heights subdivision was perfected.

This variance has been in effect since 1986 -- six years. Mansion Heights preliminary plat has received a filing extension until the year 2000. Additionally, the nature of this present request substantially alters the conditions under which the variance was originally granted inasmuch as an additional four homes will be served by this driveway. The issue regarding paving may warrant revisitation by the BCC. Staff recommends at the very least that dust abatement be applied to the affected roads. He said there exists the potential of an unpaved road within the City limits and within the County Air Stagnation zone for a period that could reach approximately 14 years.

Criterion 5: EFFECTS ON TAXATION -- There will be some increase in tax revenue with development of additional lots. The developer states that last year's tax bill for the property was approximately \$1500.00. Tax revenues expected after the land is subdivided would be approximately \$5000.00.

Criterion 6: EFFECTS ON THE NATURAL ENVIRONMENT -- The proposed subdivision is situated on the hillside of Mount Dean Stone within plain view of most, if not all, of Missoula proper. As noted by Doris Fischer, "The Urban Comprehensive Plan acknowledges the value of our scenic surroundings, and the need to preserve such areas." "To the extent that this subdivision could incorporate design elements which reflect a sensitivity to the remaining natural features, the developer should be so encouraged."

Similarly, according to Amy O'Herren of Rural Planning, "The *Inventory of Conservation Resources for Missoula County* identifies Pattee Canyon as an important natural resource area for the County."

With this in mind, it is the duty of the OCD and the governing body to analyze this proposed subdivision specifically as it relates to its impacts on the wildlife, visual, and aesthetic resources of Missoula. On this note, Staff supports conditions that establish design criteria to lessen the detrimental impact to these resources and to simultaneously enhance the visual effect of this development upon the community.

Criterion 7: WILDLIFE AND WILDLIFE HABITAT -- Please revisit Amy O'Herren's comments. The recommendations contained therein should be placed within the covenants.

All lot owners are encouraged to obtain a copy of "Living with Wildlife."

The property is not located within a designated floodplain.

Criterion 8: EFFECTS ON PUBLIC HEALTH AND SAFETY -- The subdivision has been submitted for sanitary review by State and local health authorities. Water supply and sewage disposal plans must be approved prior to filing the plat. Health and emergency services are available in Missoula.

Once again a subdivision is being proposed at a site within the county that possesses high community resource values and where no specific set of adopted regulations adequately apply or enable through review by the OCD. Until a policy is stated or specific regulations apply, subdivisions such as this will be subject to evaluation and conditions that are tied to the intent and philosophy statements of the approved Comp Plan and zoning ordinance. These statements of intent and philosophy provide a framework the affords the OCD and the developer the opportunity to establish specific conditions that substantially comply with the Comp Plan, and thereby introduce a subdivision that would be more within the interest of the public than one not subject to such conditions.

MAY 20, 1992 (Cont.)

The Office of Community Development staff recommends that Wild Flower Hills be approved based on the findings of fact and subject to the following conditions:

1. Sanitary restrictions be lifted by State and Local health authorities.
2. Grading, drainage, erosion control, and street plans shall be approved by the City Engineer (for those streets residing within the city) and the County Surveyor (for those streets residing within the County).
3. The developer shall install natural gas.
4. All appropriate easements shall be shown on the face of the plat.
5. Driveways not covered by the 1986 variance shall be paved.
6. The developer shall apply dust abatement to those roads granted a variance by the City Board of Adjustment.
7. The covenants shall:
 - 1) Address wildland fire protection, protection and enhancement of wildlife habitat, weed control, and scenic and ecological values. Such language shall be subject to the approval of the OCD and Rural Planning;
 - 2) 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;
 - 3) 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 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
 - 4) 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.
8. The developer shall comply with the following design standards:
 - 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) Architectural control shall, to the greatest extent practicable, conform to the Hillside Design guidelines.
 - 3) Cut and fill for driveways and parking areas are not to exceed 3:1 side slopes.
 - 4) Building walls are not to exceed 18 feet above the adjacent grade on all sides.
 - 5) Fences are to be open view-fences.
9. All utilities must be installed underground and utility easements must be shown on the Plat.
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.

The hearing was opened to public comment.

Nick Kaufman, of Sorenson and Company representing Rob DeMarios, developer, showed by use of a drawing, how the roads in the area are mapped out. A road system was designed for the Mansion Heights Subdivision with several switchbacks that wind in and out of the City limits. The proposed subdivision lays to the west of Mansion Heights. Mr. DeMarios worked with the developers of Mansion

MAY 20, 1992 (Cont.)

Heights to relocate his easement to conform with the future road system in the Mansion Heights project. Six years ago the developer asked the City for a paving variance of the road for seven home sites.

He said that Conditions 1-4 are agreeable to the developers. They would like to change Condition No. 5. Under the current County Zoning Resolution, if there is an unpaved road, according to OCD, the developer does not have to provide a paved driveway or two off-street parking spaces. He said it would seem reasonable that two off-street parking spaces should be put in and set a mechanism in place to pave the road and the driveway at the time of subdivision review. He asked that Condition No. 5 be amended to read, "driveways for Lots 2, 3, 4, 5 shall provide two off-street parking spaces and shall be paved at the time the main access road is paved." He proposed Condition #6 be amended to say "The developer shall apply dust abatement to the access road through Lot 4." Dust abatement would include the driveways as well.

He said the developers agree with Condition No. 7. Condition No. 8 has several subcategories. These sub-categories refer to grading, architectural control and design standards, cut and fill slopes and the building walls. These are closely related to Condition No. 7 (1) which deals with "...scenic and ecological values." Therefore, he asked that Condition No. 8 be modified to say, "Fences are to be open view fences." The scenic issues, he said, will be addressed under Condition No. 7 (1). There is also a committee looking at a resource protection ordinance which should be in place by the end of next year. He said instead of applying hillside development standards now which aren't adopted community-wide, the developers would like to be address those. He said the issues can all be addressed in the covenants in Condition No. 7 (1).

He said Conditions No. 9 and 10 are agreeable to the developers.

He said that the developers feel that the additional cost of dust abatement to the road to serve one home would be very cost-prohibitive and probably not economically feasible for them.

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

Ann Mary Dussault asked who put in the road to the north of the proposed subdivision and what the road goes to?

Nick Kaufman stated that eight 20 acre tracts were created. Mr. Demarios purchased one of those tracts. Another party purchased six of the eight 20 acre tracts; this person has put this road through. The road goes just above Mr. Demarios' home. The road will be extended to Pattee Canyon.

Ann Mary Dussault asked the staff to find out who the developer is that built the road and what their plans are. She asked Jim Carlson about the variance that was granted from paving and the request to apply dust abatement to the area accessing four of the five lots.

Jim Carlson, Environmental Director for the City-County Health Department, stated that the zoning regulations were modified in such a way that all new roads would be caught by the new regulations and the existing roads in existence before 1977 that were heavily used, could be addressed by the County Air Pollution Control Board regulations. He said this method is not working out and will have to be addressed in the future.

Ann Mary Dussault stated that if the Board is going to accept the counter-proposal, the dust abatement process has to be approved by someone. She asked who that would be.

Nick Kaufman suggested that a subcategory (5) be added to Condition No. 7 which could state that the covenants shall "provide for road maintenance and dust abatement. Said language shall be approved by the City-County Health Department." He also requested that Condition No. 11 contained within the original staff report be added which states, "The developer shall file Property-Owners Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State." A home owners association will be created for the maintenance and dust abatement of that road.

Ann Mary Dussault asked about the close availability of water from Mountain Water and why the developers are putting in individual wells and not hooking up to this water source?

Nick Kaufman explained that the State Department of Health at this time does not allow individual pressure booster pumps for single family residential uses. In order for the water supply to serve the homes, the pressure has to be boosted to each home. A booster station would have to be installed with a six inch water main at much expense. Another option would be to install a smaller station with individual booster stations in each home; this too is cost-prohibitive. Mountain Water is going to be

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building another tank and water main probably next year. Water could become available in the near future; although it is not definite and not available at this point in time.

Ann Mary Dussault commented that Condition No. 7 does deal with the scenic and ecological issues, but does not indicate to the Board specifically what those guidelines mean. Condition No. 8 deals with this issue. She asked which sub-categories in Condition No. 8 the developers have a problem with.

Nick Kaufman stated that Condition 8 (1) is subjective and open-ended. He said it is confusing and could be interpreted in different ways by different people. Regarding Condition No. 8 (2), he said that OCD has prepared a document on guidelines for hillside development. These guidelines have not been adopted by anyone. He said the developers would like the freedom to go through and apply some criteria and address the scenic and ecological values. He said the greatest thing the developers are doing for the area is not developing the land six units per acre which the Comp Plan calls for; rather, the developers are developing the land at one unit per four acres. He said this is the greatest minimization of disturbance and protection of ecological values that the developers could do. Relative to Condition No. 8 (3), he said this condition is up to interpretation and is unclear. Condition No. 8 (4) he said, is not reasonable because it requires height limitations in an area where homes have historically not had height limitations. He said that the developers felt that this seemed unreasonable. Condition 8 (5) the developers have no problem with and requested that it be left in the report.

He said that the developer and his architect understands what the guidelines say to do. Some of the guidelines will be incorporated into the subdivision. He explained that rather than try to sit down with the Commissioners and the OCD staff at this meeting and try to come with the guidelines, he asked to be given the freedom to draft those and run them by staff. He said when they are finished with these, the developers can bring them before the Commissioners before they are filed. He said they feel that Condition No. 8 (1-4) is not definable enough so that the developers could represent to a purchaser what has to be done.

A general discussion ensued relative to the document on guidelines for hillside development prepared by the Office of Community Development. The document contains a packet of information put together by the OCD staff. No one has approved them; they are just guidelines.

John Mangiameli asked about Condition No. 5 where Nick Kaufman requested that Lot No. 1 be omitted.

Nick Kaufman explained that to provide dust abatement for one home would cost an enormous amount of money each year for just that stretch of road.

John Mangiameli asked relative to Condition No. 5, if the driveway for Lot No. 1 would be paved when the road for Mansion Heights is paved? He suggested that Lot No. 1 be included in the condition.

Nick Kaufman agreed to add Lot 1 to the Condition, making the condition a requirement for Lots 1-5.

John Mangiameli asked about Condition No. 6 relative to applying dust abatement to the access road through Lot 4. He asked whether this condition includes all the driveways.

Nick Kaufman stated that all the driveways are included in Condition No. 6. To make the Condition more clear he suggested the following language: "The developer shall apply dust abatement to the access road and driveways."

A discussion ensued relative to Condition No. 8. The developers request that sub-categories 1-4 be deleted and sub-category 5 remain. The developer asked that they be allowed to amend the covenants under Condition No. 7 (1) and address the scenic and ecological values with specific criteria.

Ann Mary Dussault moved and Janet Stevens seconded the motion to adopt Conditions 1-4 as follows:

1. Sanitary restrictions be lifted by State and Local health authorities.
2. Grading, drainage, erosion control, and street plans shall be approved by the City Engineer (for those streets residing within the city) and the County Surveyor (for those streets residing within the County).
3. The developer shall install natural gas.
4. All appropriate easements shall be shown on the face of the plat.

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The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Janet Stevens seconded the motion to amend Condition No. 5 as follows:

5. Driveways for lots 1 through 5 shall provide two paved off-street parking spaces and shall be paved at the time the main access road is paved. Lots 1, 2, 3 and 4 will be paved when the lower portion of the road is paved. Lot 5 becomes effective when the upper portion of the road is paved.

The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Janet Stevens seconded the motion to amend condition #6 to read:

6. The developer shall apply dust abatement to the access road and driveways through Lot 4 according to the conditions set out in the covenants. The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Janet Stevens seconded the motion to adopt the addition of 7(5) as follows:

7(5) Said language shall provide for road maintenance and dust abatement and shall be approved by the City/County Health Department.

The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Janet Stevens seconded the motion to amend condition #8 to read:

8. All fences are to be open view fences.

The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve Conditions No. 9 and 10 as follows:

9. All utilities must be installed underground and utility easements must be shown on the Plat.

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.

The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Janet Stevens seconded the motion to add Condition #11 as follows:

11. The developer shall file Property-Owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State.

The motion carried on a vote of 3-0.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the Summary Plat for Wild Flower Hills subject to the findings of fact in the staff report and subject to the amended conditions as follows:

1. Sanitary restrictions be lifted by State and Local health authorities.

2. Grading, drainage, erosion control, and street plans shall be approved by the City Engineer (for those streets residing within the city) and the County Surveyor (for those streets residing within the County).

3. The developer shall install natural gas.

4. All appropriate easements shall be shown on the face of the plat.

5. Driveways for lots 1 through 5 shall provide two paved off-street parking spaces and shall be paved at the time the main access road is paved. Lots 1, 2, 3 and 4 will be paved when the lower portion of the road is paved. Lot 5 becomes effective when the upper portion of the road is paved.

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6. The developer shall apply dust abatement to the access road and driveways through Lot 4 according to the conditions set out in the covenants.

7. The covenants shall:

1) Address wildland fire protection, protection and enhancement of wildlife habitat, weed control, and scenic and ecological values. Such language shall be subject to the approval of the OCD and Rural Planning;

2) 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;

3) 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 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

4) 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.

5) Said language shall provide for road maintenance and dust abatement and shall be approved by the City/County Health Department.

8. All fences are to be open view fences.

9. All utilities must be installed underground and utility easements must be shown on the Plat.

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 developer shall file Property-Owner's Articles of Incorporation and By-Laws, with proof of filing with the Secretary of State.

The motion carried on a vote of 3-0.

HEARING: COUNTRY CREST NO. 3 (PRELIMINARY PLAT)

John Mangiameli, Office of Community Development explained that Nick Kaufman of Sorenson & Company, representing Betty Deschamps, seeks to rezone 101.2 acres of property located north of Mullan Road across from Sunset Memorial Gardens from "C-RR1" (Residential - 1 dwelling unit/acre) to "C-RR2" (Residential - 2 dwelling units/acre). The second part of this request regards a preliminary subdivision plat for Country Crest No. 3. The proposal seeks to subdivide 101.2 acres into 66 one acre single-family lots. The proposal includes 15.37 acres of common area.

This proposal is a combined rezoning and preliminary plat review request.

Country Crest No. 3 is a proposed subdivision located on the north side of Mullan Road, approximately four miles west of Reserve Street. The subdivision request is for 66 single family lots on 101.2 acres developed in 1 to 5 phases. The developer requests preliminary plat approval for 5 years. Staff agrees with this request. The 15.37 acres of common area follows drainage swales and connects with common area in Country Crest No.'s 1 and 2. The common area will be maintained by the homeowner's association. Gross density on the full acreage is .65 units per acre.

Individual septic systems are proposed. Similarly, each lot will be served by individual wells.

Staff recommends that sewer line be dry-laid from the septic tanks to Mullan Road for potential future connection to a community treatment facility. This recommendation is endorsed by Environmental Health and the Board of County Commissioners.

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A runoff disposal design which uses soil infiltration, or grassy swales, as an alternate to shallow injection wells, or sumps, is proposed. This type of stormwater collection system is recommended by environmental health for groundwater protection.

Currently, the property is zoned "C-RR1" (Residential - one dwelling unit per acre) and "C-RR2" (Residential - two dwelling units per acre). Because the proposed subdivision is designed to allow a resubdivision of the lots into half acre parcels, and based on the recommendation of the OCD, the developer is proposing to rezone this entire piece of property to C-RR2 (Residential - two dwelling units per acre).

The rezoning proposal is consistent with the 1990 update of the Missoula Urban Comprehensive Plan. The appropriateness of the "C-RR2" rezoning must be reviewed independently from any reference to the proposed subdivision.

In this particular instance, only item 1) applies. This rezoning application would bring the county zoning ordinance, at this location, into greater compliance with the comprehensive plan. The county zoning designation is C-RR1, or one dwelling unit per acre, and the comp plan suggests that this area be developed at a density of two dwelling units per acre. The rezoning application seeks to change the zoning to C-RR2, or two dwelling units per acre.

After reviewing all testimony and documentation, the Planning Board recommended that the property located north of Mullan road in the SW 1/4, Sec.11, and NW 1/4 & NE 1/4 Sec.14, T.13N., R.20W, be rezoned from "C-RR1" (residential) to "C-RR2" (residential) based on the findings of fact in the OCD staff report.

FINDINGS OF FACT

Criterion #1: BASIS OF NEED -- No Community housing assessment or strategy is available for Staff to use in evaluating this proposal, nor has the developer supplied such an analysis.

The area encompassed by the proposal is zoned C-RR1. Combined with the subdivision proposal is a request to change the zoning on this property from C-RR1 to C-RR2. The C-RR2 zoning allows a maximum density of 2 dwelling unit per acre.

The Comprehensive Plan designates the area comprising Country Crest No. 3 as Suburban Residential (2 dwelling units per acre).

Criterion #2: EXPRESSED PUBLIC OPINION -- Staff has not received any comments from the public to date.

Criterion #3: EFFECTS ON AGRICULTURE -- The Urban Comprehensive Plan Update, 1989, designates this area as being farmland of statewide importance (if irrigated). This property is not irrigated.

The Comp Plan encourages continued agricultural activity within the urban area through assisting landowners with voluntary conservation techniques, clustering new development adjacent to existing neighborhoods, and designing new subdivisions in fringe areas to reduce conflict between urban and agricultural uses. Missoula County does not have a policy on farmland preservation/conservation.

Criterion #4: EFFECTS ON LOCAL SERVICES -- *Recently, there has been an increase in subdivision activity in the area surrounding the proposed Country Crest No. 3 subdivision. Unfortunately, neither the OCD nor Rural Planning has had the opportunity to examine the cumulative affects of recent and past development on this area.*

Schools: Students from this subdivision will attend Hellgate Elementary and Big Sky High School. Rachel Vielleux, Missoula County Superintendent of Schools, has no comment regarding this proposal. Craig Brewington, Superintendent of Hellgate Elementary states, "Hellgate Public Schools have no reservations or concerns about the impact of the development on the school system."

Roads: Horace Brown states:

- "1) Final road and drainage plans and specifications shall be approved by the County Surveyor's Office.
- 2) All driveway approaches shall be approved before construction takes place.
- 3) Roadway names are approved.

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- 4) The intersection of Grassland Drive with Mullan Road will require an 18 inch diameter culvert with Road Approach Culvert End Treatments (RACET).
- 5) The lot owners will be required to waive their right to protest a RSID to build the future road Connections on the east and west.
- 6) The lot owners will be required to waive their right to protest a RSID to upgrade the section of Mullan Road east of the subdivision, which they will use to access the City of Missoula."

Ambulance, Police and Fire: Private ambulance service is available.

Capt. Donald Morman of the Missoula County Sheriff's Office states that the Sheriff's Department will provide law enforcement services to the residents of this subdivision.

Bill Reed of Rural Fire and the developer have yet to work out language that will assure adequate fire protection.

Linkages between several proposed subdivisions have been required to assure greater ease of transportation and access for emergency vehicles. Staff commends the developers for working with adjoining property owners to provide a better design for pedestrian and road linkages between proposed subdivisions.

Water and Sewer Services: Water will be provided by individual wells.

Septic systems are proposed for each lot. Jim Carlson, Director of Environmental Health, comments in his letter of March 24, 1992 that this subdivision "is not currently within the City's 201 sewer service area. But because of the amount of proposed development and potential future development in the Mullan Road area, we should plan carefully to accommodate the installation of public sewer in the future. Failure to plan for eventual connection to public sewer will inevitably result in unnecessary high installation costs later on."

The developer will propose to dry-lay sewer line crossings under the street. While this does provide a benefit, it falls short of Environmental Health's recommendation and the Board of County Commissioners requirement of new subdivisions in this area.

Mr. Carlson requests certain requirements in regard to sewage disposal. These comments can be found as conditions for approval of the subdivision.

Ed Zuleger of the Health Department has not commented on this proposal due to insufficient information.

One of the positive aspects of this subdivision proposal is the incorporation of grassy swales infiltration beds. This system is designed to dispose of stormwater runoff and aid in the removal of contaminants from the storm water prior to reaching groundwater. This has been encouraged by the Health Department as a tool to protect the aquifer.

Parkland: The developer exceeds the 1/9 parkland dedication requirement. The developer has taken care to locate these lands to preserve natural drainage ways.

Staff recommends that lot 66 be deleted and included as common area. Staff makes this recommendation because part of this lot

falls within the 100 year floodplain and is designated by the Comp Plan as Open and Resource land.

Staff also recommends that a 20' pedestrian easement be dedicated and shown on the plat at a point readily accessible to the residents of the subdivision that connects to Hiawatha Road. Eight feet of the easement should be improved to allow for pedestrian and bicycle traffic. Staff suggests woodchips or some other pervious surface be used. The remaining 12' should be landscaped with native plants to avoid encroachment from neighboring yards. This easement is to link with the old Milwaukee Railroad right-of-way should it ever become public or should access be granted. The easement should not be improved until such time as access to the right-of-way is obtained.

Staff recommends that any portion of the common area land left open be planted with native plants.

Utilities: According to the developer, electric, natural gas and telephone utilities will be installed. All utility easements must be shown on the Plat. However, the status of this is unknown.

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Solid Waste: Solid waste services will be provided by BFI. BFI recommends that 90 gallon carts be used in new subdivisions. According to Max Bauer, "They are much neater and eliminate the dog problem."

Criterion #5: EFFECTS ON TAXATION -- The developer states that last year's tax bill was approximately \$250.00. The tax bill expected for the property after full development of the subdivision is \$70,000.00.

Criterion #6: EFFECTS ON THE NATURAL ENVIRONMENT -- Any intrusion of modern human habitation into an area where it presently does not exist adversely affects the natural environment. Houses built within this subdivision will substantially alter the agricultural character of the landscape. Additionally, household pollutants such as oil, cleaning fluids, detergents, paint, etc. are often introduced into the environment. Similarly, fertilizers may increase the level of nutrients contained in runoff, and pesticides entering surface or ground water cause obvious problems of their own.

The proposed subdivision resides in a portion of Missoula known as the "clay hills." This area offers a rather unique landscape and living environment. The developer proposes to set aside common area in one of this subdivision's natural drainage ways. However, by default, this means that houses will be placed in the remaining drainage ways and on the tops of the hills. For example, the Buckhorn Lane cul-de-sac runs up and stops on top of one such ridge.

The subdivision regulations require that 1/9th of the total area of the subdivision be dedicated as parkland. This amounts to 11.24 acres. Yet, the developer requests and Staff recommends approval for a two-fold increase in density. While this has no legal bearing on the amount of land dedicated for common area, intuition certainly infers such a bearing. Staff raises this point simply because the elimination of only a few lots would enhance the quality of the common area, improve views, reduce the amount of pavement, cost the developer less money, and retain more of the rural character of the area. The lots to be deleted include: 55, 15, 16, and 31.

Criterion #7: EFFECTS ON WILDLIFE AND WILDLIFE HABITAT -- Richard Clough of Fish, Wildlife and Parks states, "this proposed subdivision includes range for white-tailed deer and smaller mammals and birds, typical of areas on the outskirts of Missoula. Our main concern has to do with the white-tailed deer that frequent the area. In addition to the loss of deer habitat through development of these lots, there is potential for damage by deer to lawn and garden vegetation of the homesites. Landowners should be aware of the potential problems that can occur, and take the responsibility to protect their vegetation.

All lot owners are encouraged to obtain a copy of "Living with Wildlife."

A portion of the property is located within a designated floodplain. Native vegetation is to remain in this riparian area.

Criterion #8: EFFECTS ON PUBLIC HEALTH AND SAFETY -- The subdivision will be submitted for sanitary review by State and local health authorities. Water supply and sewage disposal plans must be approved prior to filing the plat. Health and emergency services are available in Missoula.

The OCD staff recommends that Country Crest No. 3 subdivision be approved subject to the following conditions:

1. Sanitary restrictions be lifted by State and Local health authorities.
2. Grading, drainage, erosion control and street plans shall be approved the County Surveyor's office.
3. Approach permits shall be applied for and granted prior to home construction. All driveways shall be paved. This shall be included in the covenants.
4. All utilities must be installed underground and utility easements must be shown on the Plat.
5. All appropriate easements shall be shown on the face of the plat.
6. Bill Reed of MRFD and the developer shall work out language that substantially meet the Uniform Fire Code and that will assure adequate fire protection for the residents of this subdivision.

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7. A management plan for the common area shall be developed in conformance with the County Extension Agent's recommendations. A homeowners association shall be created and shall implement the management plan.
8. A 20' pedestrian easement shall be dedicated at a point between lots 62 and 64 of the subdivision to the former Milwaukee right-of-way. Eight feet of the easement shall be improved with a pervious surface. Staff recommends that the remaining 12' be landscaped with native vegetation. Improvements shall be triggered when public access is obtained for the former Milwaukee right-of-way.
9. Acceptance for a deed for a lot within this subdivision shall constitute a waiver of the right to protest a sewer SID or RSID. This shall be included on the face of the plat and on all instruments of conveyance. 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. Such SID or RSID shall be to a municipal or regional system that specifically provides a benefit to the residents of this subdivision.
10. A community sewer system and road crossings shall be designed and road crossings for sewer mains constructed.
11. Soil infiltration (commonly called grassy swales) shall be used to collect stormwater runoff.
12. Road easements shall be located on the plat within the common area which is adjacent to Grant Creek and at the end of Peregrine Court. The easements shall be 60 feet wide. Road improvements shall be completed contingent on receiving an easement across the adjacent property. Improvement of the easement shall be triggered when this subdivision and any adjoining subdivision is built-out 50%. The road improvement shall be accomplished through the creation of an RSID. All roads shall meet county road standards. Location of the easements, road plans and improvements are subject to approval by the County Surveyor.
13. Lots 55, 15, 16 and 31 shall be redesigned.
14. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID or RSID for the upgrading of the approximate 1/2 mile stretch of Mullan Road just west of the Reserve Street intersection and future road extensions within the common area and may be used in lieu of their signatures on an RSID petition, provided the SID or RSID is inclusive to all or a majority of those benefitting from the improvement.
15. The plat shall show the location of the 100 year Floodplain line.
16. The covenants shall include 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 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, 721-5700. Where feasible, a copy of "Living with Wildlife" should be given to lot purchasers.
17. 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 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.
19. The developer shall enter into a written agreement with the Board of County Commissioners to extend the period of preliminary plat approval.

The hearing was opened to public testimony.

Nick Kaufman, Sorenson and Company, representing the developer, Betty Deschamps, stated that the OCD staff has proposed 20 conditions; about 10 of those conditions are contained within the regulations. He said that a portion of the property is currently zoned C-RR2, so the developer is not asking for the entire 100 acres to be rezoned, just the easterly portion. By use of a map of the subdivision, he showed

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the Board what the developers had modified. He said the lots have been designed for one acre lots, 150 feet wide by 300 deep. He said on most lots, the front half is developed with the back half mowed knapweed. The developers have agreed to create the lots such that they will be 250 feet wide and create two building envelopes so that a person could build on either end of the lot but not in the middle. This allows the potential for future division of the lot. The developers redesigned the layout of the subdivision so that there is more common space and more uniformity. Lot 66 has been moved to create a greenspace connector. Also, they redesigned and limited the building site on Lot 16 to create an open view. He stated that in terms of design, he feels they have met all the criteria in terms of the Mullan Road area.

He said that he met with Mr. Neilson and Mr. Carlson from the Health Department a number of times to discuss the sewer. He said the developers want to provide an economic incentive allowing the owner the opportunity to split their one acre in half to generate some resources if they put in an improvement such as sewer. He stated that the other way to do this is to require sewer when the person buys the property. He said the first method creates a financial incentive to put interior sewer in the subdivision some day.

He said the developer is proposing to put in the road crossing and design a S.T.E.P. sewer system before the sewer main is constructed. He suggested the following additions to Condition No. 10:

- a. The developer must control the placement of gas, electric, telephone and cable TV such that an adequate easement is left along one side of each roadway for the purpose of laying sewer main.
- b. The sewer main easement shall be clearly delineated on the plat.
- c. The developer shall place in the deeds and covenants the following language:

"Acceptance of a deed to lots and assessable land depicted in this plat shall constitute a waiver of the statutory right of protest to the creation of one or more city Special Improvement Districts or County Rural Special Improvement Districts for the purpose of financing the design and construction of an interior sewer system to serve the subdivision."

The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land depicted hereon.

All documents of conveyance shall contain a reference to the covenants and waivers contained herein."

- d. The covenants shall contain the following language:

"Any private improvement within the sanitary sewer easement will be subject to damage, destruction and removal. The only restoration which will be done by the Contractor installing the sewer or in the operation and maintenance of the sewer will be replacement of topsoil and asphalt patching."

Explaining 10.(d), he said that if the owner puts a decorative fence up in the public right-of-way, when the sewer comes through, the fence will be removed and set in a pile; it will not be put back up. The asphalt will be replaced when the driveways are torn up.

The total costs of installing sewer, the creation of two lots by summary subdivision process, etc., could be defrayed by selling the other lot; there is tremendous financial incentive and opportunity to go along with this opportunity. When the sewer system does become available to this subdivision, the owners have waived their right to a RSID or SID and the sewer will be installed. At this time, the property-owners could elect to divide their lots and recoup their costs. If the developers have to dry-lay the mains, it would make the project economically unfeasible. He asked the Board to look at the long-run community good.

Earl Pruyn, owner of the property to the north and adjacent to the proposed subdivision along the Milwaukee Railroad right-of-way, said that this right-of-way is approximately 50 feet deep and 150 feet across the full length and adjacent to the back lots of the subdivision. He said he is in support of the subdivision. However, he said he had concerns for the safety of the residents. He said he would like to fill the "lesion" by allowing industrial waste to be dumped in this place. He said it has been his intention to use this area in this manner for some time. He has gone to the State and they have encouraged him to use the land as an industrial materials dump for concrete, sawdust, etc. When the lesion is filled, he wants to make this land into agricultural land. The land is zoned industrial. He feels the ridge area will

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be damaged by having water along the top. He said that he has concerns for safety, for the damage to the ridge, and not being able to make this area into a landfill. He proposed to the Board that all the lots adjacent to the Milwaukee Railroad right-of-way be unable to be sold or used until the fill is completed. He said that he feels this is the only protection for this area.

Barbara Evans asked about the time factor to fill the "cut".

Earl Pruyn stated that there is a great need for an industrial dump site. He estimated it may take five or six years to fill.

Barbara Evans stated that it seemed that what Mr. Pruyn was asking the Board to do is to prevent the Deschamps from developing their land so that he could develop his.

Earl Pruyn stated that he is in support of the subdivision. He is just asking that the lots adjacent to the "cut" be delayed because they are critical to safety and damage.

Jim Carlson, Environmental Health Director, said that what the developer is proposing has some strong advantages; however, he has some concerns. He said it was the Health Departments preference that the mains be installed because to install sewer in the future would be more expensive; the waivers of right to protest have never been challenged on constitutional grounds in court and could become a problem someday; and other developers have already been required to provide the mains in the Mullan Road area.

Nick Kaufman stated that it is a Health Department regulation that has caused scattered development in the Mullan Road area. The regulations say that if there is individual water and sewer, it must be on one acre lots. This has made everything west of Reserve Street that has come in after 1973 when the Sanitation Subdivision Act came in, into one acre tracts. Therefore, it is very difficult to extend sewer and water into this area. The reason for this regulation was to decrease the density of septic tanks in the area. From a landuse standpoint, the regulation totally ignored what this would create. The first half of the one acre lots is maintained and used; the other half is never used. He said this may have been good Health Department policy, but it has been poor landuse policy. He stated that the waivers have been used in all of his 15 years in the business; they have not been challenged. The cost differences are minimal. He asked that the Board look at special conditions. The adjacent subdivision on the flat is half acre lots with an existing S.T.E.P. System because they have ground water problems in this area. This property does not have ground water problems. He said that he feels when the policy was put into place, the Health Department didn't envision the division of lots and the economic incentive and the restrictions to create a special easement. He said they are trying to provide the County with wise landuse planning, still meeting the Health Departments requirements.

He spoke about Mr. Pruyn's comments by saying that the OCD staff see this railroad grade as a future public open space and corridor. The staff has required the subdivision to allow for the connection to this area. He said the grade has existed since the late 1890's, early 1900's; it has not significantly eroded back into the subdivision. There are areas of draws where it has eroded, but when the roads are constructed, the drainage will be cut off and taking the drainage through the drainage swales and then to the west. He said he feels there is no problem in the lifetime of the homes from the clay hills and watering lawns. He stated that Mr. Pruyn's plans may be the best for that area and should be discussed between him and the Deschamps family. Mr. Pruyn will have to go through the process that developers have to go through.

Barbara Evans asked what the phase schedule is for the subdivision.

Nick Kaufman stated that the last homes to be developed happen to be the lots Mr. Pruyn is talking about. He said that with a little patience and cooperation maybe this issue could be worked out.

A general discussion ensued relative to the sewer SID or RSID. The language is now specific; in order for the subdivision to have an SID or RSID, the subdivision would have to receive benefit from that. When the sewer main is installed, the roads will not have to be dug up once they are constructed because the sewer will be dry-laid under the road crossings.

Ann Mary Dussault asked about the design of the sewer and the kind of connection.

Nick Kaufman explained that the sewer would be designed so that it could connect to a future sewer. There is a requirement in the covenants that a S.T.E.P. tank has to be put in at the time of the construction of the house. The developers will design the optimal location for the interior sewer mains; make sure all the utilities are out of that corridor and install conduits where the mains would do the

MAY 20, 1992 (Cont.)

road crossings and the interior subdivision; provide for a right-of-way to Mullan Road and common areas.

A general discussion ensued relative to the sewer systems. The most susceptible systems to failure are the systems in clay soils. However, the developer is proposing individual systems.

Jim Carlson stated that when one system fails, it is replaced. The rest of the residents will not replace theirs. The situation that results is that a sewer system is never installed.

Ann Mary Dussault said that in the event where the situation may call for the State Health Department to step in, the Commissioners could activate the RSID in about 24 hours. The difference between Lincoln Hills and Linda Vista is that there was a waiver of the RSID; the waiver is very powerful.

Jim Carlson stated that there are three portions to the policy that was developed. 1) the appropriate on-site facilities would be developed such as S.T.E.P. tanks; 2) a waiver of the right to protest a RSID or SID; and 3) dry-laying the sewer mains. The three together make it very easy and the most economical to the homeowner to come into an area with hookup to sewer.

Janet Stevens stated that with an RSID, there wouldn't be a wait for the State to do anything; the Board could initiate the RSID the next day.

Jim Carlson said that he hoped that when the proposed thousand lots are built in the Mullan Road area that the number of lots would make it economically feasible to install the main and sewer to proceed at that time.

Janet Stevens asked why it would be critical to lay the dry main now? What difference does it make to the County from a health perspective if there is a waiver of the right to protest an RSID?

Jim Carlson stated it makes it easier and less costly and less evasive.

Janet Stevens said it was not a health issue then that should concern the Board. It is a cost factor.

Jim Carlson said in the long run, it was also a resource protection; the more that can be done in planning the community so that the infrastructure can be facilitated, the better the protection to the aquifer. He says that the Health department feels dry-laying the main is better planning than allowing subdivisions not to install this type of equipment. The difference is that the developer has to pay more costs up front.

Peter Neilson, Health Department, stated that there are more risks associated with the developer's proposal instead of drylaying the sewer mains. There may be some problems getting the sewer in later on if it is not required at this time. There is a risk that the proposal will not work. It will cost a lot of money to put the sewer in at a later date and the residents will oppose it.

Ann Mary Dussault says they won't be able to oppose the RSID because they will have waived their right.

Barbara Evans stated that it is an issue of pay now or pay later. She said people are trying to provide affordable housing, but if the costs are piled onto the subdivisions right at the start, they are minimizing the availability of affordable housing. She said that she feels that giving the landowners the economic incentive is good land use planning.

Ann Mary Dussault asked about the language contained Condition No. 10 (c) which talks about the waiver of a right to protest an RSID or SID for the purpose of financing the design and the construction of an interior sewer system to service the subdivision. She said she was concerned about the language because while it is an RSID to construct the interior mains, will it provide for bringing the main to the subdivision?

A discussion ensued relative to Condition No. 10. The Condition provides for bringing the main to the subdivision as well as Condition No. 9.

Jim Carlson stated that when the pipes are in place the location should be recorded in some public place.

Nick Kaufman said the reason the waiver to design is needed because when the developer comes back in the driveways are already in. Also, in regards to the recording of the location of the pipes, the State

MAY 20, 1992 (Cont.)

Department of Health requires "as built" drawings certified by a registered professional engineer that they were built in accordance with the plans approved by EHES; these are then recorded with EHES. The City Engineer receives a copy of these plans.

Ann Mary Dussault moved and Janet Stevens seconded the motion to rezone the property located north of Mullan Road across from Sunset Memorial Gardens from "C-RR1" (Residential - 1 dwelling unit/acre) to "C-RR2" (Residential - 2 dwelling units/acre). The motion carried on a vote of 3-0.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the Preliminary Plat for Country Crest No. 3 based on the Findings of Fact and subject to the following conditions:

1. Sanitary restrictions be lifted by State and Local health authorities.
2. Grading, drainage, erosion control and street plans shall be approved the County Surveyor's office.
3. Approach permits shall be applied for and granted prior to home construction. All driveways shall be paved. This shall be included in the covenants.
4. All utilities must be installed underground and utility easements must be shown on the Plat.
5. All appropriate easements shall be shown on the face of the plat.
6. Bill Reed of MRFD and the developer shall work out language that substantially meet the Uniform Fire Code and that will assure adequate fire protection for the residents of this subdivision.
7. A management plan for the common area shall be developed in conformance with the County Extension Agent's recommendations. A homeowners association shall be created and shall implement the management plan.
8. A 20' pedestrian easement shall be dedicated at a point between lots 62 and 64 of the subdivision to the former Milwaukee right-of-way. Eight feet of the easement shall be improved with a pervious surface. Staff recommends that the remaining 12' be landscaped with native vegetation. Improvements shall be triggered when public access is obtained for the former Milwaukee right-of-way.
9. Acceptance for a deed for a lot within this subdivision shall constitute a waiver of the right to protest a sewer SID or RSID. This shall be included on the face of the plat and on all instruments of conveyance. 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. Such SID or RSID shall be to a municipal or regional system that specifically provides a benefit to the residents of this subdivision.
10. A community sewer system shall be designed and road crossings for sewer mains constructed.
 - a. The developer must control the placement of gas, electric, telephone and cable TV such that an adequate easement is left along one side of each roadway for the purpose of laying sewer main.
 - b. The sewer main easement shall be clearly delineated on the plat.
 - c. The developer shall place in the deeds and covenants the following language:

"Acceptance of a deed to lots and assessable land depicted in this plat shall constitute a waiver of the statutory right of protest to the creation of one or more city Special Improvement Districts or County Rural Special Improvement Districts for the purpose of financing the design and construction of an interior sewer system to serve the subdivision."

The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land depicted hereon.

All documents of conveyance shall contain a reference to the covenants and waivers contained herein."
 - d. The covenants shall contain the following language:

MAY 20, 1992 (Cont.)

"Any private improvement within the sanitary sewer easement will be subject to damage, destruction and removal. The only restoration which will be done by the Contractor installing the sewer or in the operation and maintenance of the sewer will be replacement of topsoil and asphalt patching."

11. Soil infiltration (commonly called grassy swales) shall be used to collect stormwater runoff.
12. Road easements shall be located on the plat within the common area which is adjacent to Grant Creek and at the end of Peregrine Court. The easements shall be 60 feet wide. Road improvements shall be completed contingent on receiving an easement across the adjacent property. Improvement of the easement shall be triggered when this subdivision and any adjoining subdivision is built-out 50%. The road improvement shall be accomplished through the creation of an RSID. All roads shall meet county road standards. Location of the easements, road plans and improvements are subject to approval by the County Surveyor.
13. Lots 55, 15, 16 and 31 shall be redesigned.
14. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID or RSID for the upgrading of the approximate 1/2 mile stretch of Mullan Road just west of the Reserve Street intersection and future road extensions within the common area and may be used in lieu of their signatures on an RSID petition, provided the SID or RSID is inclusive to all or a majority of those benefitting from the improvement.
15. The plat shall show the location of the 100 year Floodplain line.
16. The covenants shall include 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 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, 721-5700. Where feasible, a copy of "Living with Wildlife" should be given to lot purchasers.
17. 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 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.
19. The developer shall enter into a written agreement with the BCC to extend the period of preliminary plat approval.
20. The statements to be placed on the face of the Plat contained in Conditions No. 9 and 10c shall be subject to the approval of the County Attorney's Office.

The motion carried on a vote of 3-0.

There being no further business to come before the Board, the meeting was recessed at 3:50 p.m.

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MAY 21, 1992

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:

MAY 21, 1992 (Cont.)Application for Federal Assistance

Chairman Evans signed the Application for Federal Assistance for the Comprehensive Economic Development Plan for the Missoula County Airport Industrial Park for the period starting 8/1/92 and ending 12/30/93, for a total amount of \$125,000.00 (\$59,117.00 Federal funding and \$65,883.00 applicant funding). The application was returned to John DeVore, Administrative Officer, for further handling.

Escrow Agreement and Request for Reconveyance

The Board of County Commissioners signed the Escrow Agreement and Request for Reconveyance for Paul Spencer in the amount of \$6,000.00. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Certification of Compliance

The Board of County Commissioners signed a Certification of Compliance, stating that the Missoula Children's Theater is in compliance with Missoula County bidding and procurement standards. The Certification was returned to Cindy Klette for further handling.

Resolution No. 92-041

The Board of County Commissioners signed Resolution No. 92-041, a resolution approving the application of Idaho Timber Corp. for tax incentives for new and expanding industry under the provisions of Resolution No. 91-101 based on improvements in excess of \$1,500,000 installed during 1991 consisting of remodeled buildings and industrial equipment.

Budget Transfer

The Board of County Commissioners approved and signed the following budget transfer for DES and adopted it as part of the FY'92 budget:

no. 92028, a request to transfer \$2,000.00 from the Unprogrammed Expense account to the Capital Equipment account as spending authority is needed in capital tech equipment to accommodate purchases intended under the DNRC grant, and buying the equipment needed to implement the grant will exceed the grant amount by about \$2,000.

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

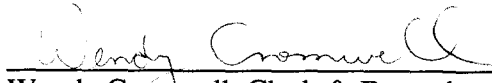
Election Canvass & Creation of Sewer District

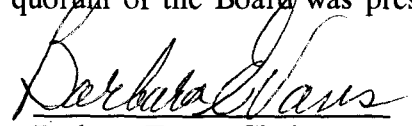
In the afternoon, Commissioners Evans and Stevens and County Auditor Susan Reed canvassed the results of the Seeley Lake Sewer Election. The Commissioners unanimously declared the Seeley Lake - Missoula County Sewer District created, based upon the favorable vote cast in a Special Election held on May 19, 1992.

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MAY 22, 1992

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.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

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MAY 25, 1992

The Courthouse was closed for the Memorial Day Observed holiday. In the forenoon, Commissioner Evans spoke at the Memorial Day observance ceremony held on the Courthouse lawn.

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MAY 26, 1992

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

MAY 26, 1992 (Cont.)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 #10 (4/26/92 - 5/09/92) with a total Missoula County payroll of \$393,228.29. The Transmittal Sheet was returned to the Auditor's office.

Resolution No. 92-042

The Board of County Commissioners signed Resolution No. 92-042, a resolution superseding and replacing Resolution No. 92-024, Vacating the Unnamed Road from the North-South Mid-Section Line of Section 35, T. 12 N., R. 21 W. to a line extending Northeasterly from the NE corner of Lot 10, Loloview Acres, PMM., Missoula County, as Missoula County failed to give notice to adjoining landowners as required and voided the original resolution.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement with the Sanders County Commissioners accepting the recommendation of the Missoula City-County Library Board that the Bookmobile be sold to Sanders County for a total purchase price of \$21,829.00, as per the terms and conditions set forth in the Agreement, with the Agreement ending June 1, 1993 or earlier if the final payment is made before that date. The Agreement was returned to Dave Pauli, Library Director, for further signatures.

Other items included:

The Commissioners approved a request from Nick Kaufman of Sorenson & Company that the Lincoln Heights proposed subdivision be permitted to connect to City of Missoula Sewer pursuant to the conditions of plat approval.

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

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MAY 27, 1992

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

Chairman Evans examined, approved and ordered filed an Indemnity Bond naming Dorine Clifford as principal for Warrant #32942, dated March 2, 1992, on the Clerk of Court's Trust Fund in the amount of \$150.00, 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 between the Partnership Health Center Governing Board, the Missoula City-County Board of Health, and Missoula County for the purposes of establishing a co-applicant relationship for governance of a community health center in accordance with 42CFR 51c.302(a) and to clarify the roles and responsibilities of this relationship, as per the items set forth.

Certification of Dedication

The Board of County Commissioners signed as Owners a Certification of Dedication that they have caused to be re-surveyed, re-subdivided and re-platted Lots 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48, Hillview Heights No. 7, a platted subdivision of Missoula County, Montana, located in the Southeast one-quarter of Section 7, T. 12 N., R. 19 W., PMM, Missoula County, containing 21.05 acres more or

MAY 27, 1992 (Cont.)

less being subject to all easements and rights-of-way existing, as shown or of record and all according to the attached plat; certifying further that all public utility easements within the boundaries of these properties shown on the face of the original plat of Hillview Heights No. 7 but, that are not also shown on the face of this re-subdivision, are hereby vacated; that the name of street shown on the original plat of Hillview Heights No. 7 as "Cloudview Way" is changed to "Southridge Drive"; that the tract of land is to be known as "The Ridge", and that this plat conforms to the preliminary plat as previously reviewed and approved by the Missoula City Council. The Certification was returned to Jim Dopp, Operations Officer, for further handling.

Agreement for Professional Engineering Services

The Board of County Commissioners signed an Agreement for Professional Engineering Services between Missoula County and Druyvestein, Johnson and Anderson, Inc. to review and access the current operating condition of the water-sewer system, determine the present and desired future capacity and other items outlined in the exhibit attached to the Agreement for RSID No. 901, the Lolo Water & Sewer System, as per the items set forth, for a basic fee of \$11,850.00. The Agreement was returned to Jim Dopp, Operations Officer, for further handling.

Addendum to Purchase Agreements

The Board of County Commissioners signed an Addendum to the Purchase Agreements dated 9/24/91 between Missoula County and Jack I. and Billie L. Nelson pertaining to Lots 42, 37, 38, 39, and 40 and to Lots 41, 43, 44, 45, 46, 47, and 48 of Hillview Heights #7 due to the replatting of the subject properties, the Agreements are modified as set forth in the Addendum. The Addendum was returned to Jim Dopp, Operations Officer, for further handling.

Other items included:

The Commissioners approved a draft letter regarding RSID No. 902 (Pineview Park) providing the area homeowners association with a list of the options available with respect to Pineview Park and the associated RSID for maintenance given the annexation by the City of Missoula of that portion of the Rattlesnake Valley in which the park is located.

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

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:35 p.m. by Chairman Barbara Evans. Also present were Commissioners Ann Mary Dussault and Janet Stevens.

SECOND READING AND ADOPTION OF: Fireworks Stand Regulations

The Commissioners read for the second time Resolution No. 92-037 which reads as follows (the amendments are underlined):

FIREWORKS STAND REGULATIONS

WHEREAS, it is in the public's best interest to adopt the following regulations governing the sale of lawful fireworks as enumerated in MCA 50-37-105, and to incorporate by reference Title 50, Chapter 37, titled "Fireworks," of the Montana Code Annotated, as amended; and

WHEREAS, the Board of County Commissioners has consulted with Missoula Rural Fire District personnel concerning these regulations;

NOW, THEREFORE BE IT RESOLVED, that the Missoula County fireworks Stand Regulations are hereby set forth as follows:

1. All potential sellers of fireworks must obtain a Zoning Compliance Permit from the City-County Zoning Officer. This permit will be necessary in order to obtain a permit from the Missoula County Treasurer's Office. Permits must be prominently displayed in stands.
2. Fees assessed for the operation of a fireworks stand are \$5.00 per week, or fraction thereof, and shall be payable at the time of issuance.
3. Fireworks stands thirty (30) feet or less in length must have at least one unobstructed exit and one two-gallon pressurized water extinguisher or charged garden hose inside the stands; stands

MAY 27, 1992 (Cont.)

over thirty (30) feet long shall have at least two (2) of these extinguisher or hoses and two (2) unobstructed exits as remote from each other as possible.

4. No one under eighteen (18) years of age shall be employed for the purpose of selling fireworks.
5. No smoking shall be allowed within the fireworks stand. At any place where permissible fireworks are sold or displayed, a sign reading "NO SMOKING" must be posted with letters at least four (4) inches in height and 1/2 inch in stroke where customers are most likely to read it.
6. Fireworks shall not be discharged:
 - a. Within the exterior boundaries of a state forest, state park, or state recreation area;
 - b. Within one hundred (100) feet of a fireworks retail sales location;
 - c. From, inside, or toward a motor vehicle;
 - d. In the vicinity of another person or group of people OR ANY ANIMAL in a manner likely to expose them to the risk of injury; or
 - e. In any dedicated County park or any County recreation parcel, except for the Fourth of July celebrations at Fort Missoula and Missoula County Fairground, and unless otherwise specified.
7. Retail sale of fireworks shall be conducted from stands located at least 300 feet from a church or hospital, 50 feet from any flammable liquid dispensing device or installation, 50 feet from other inhabited buildings, and 30 feet from any public roadway. The Zoning Officer may grant a waiver of the applicable setback in cases where both the setback and 50-foot clear zone cannot be met, with the concurrence of the Missoula Rural Fire District Chief and County Surveyor or their designees. The waiver shall be the minimum necessary to accommodate the clear zone. Any adverse administrative determination under this paragraph may be appealed to the Board of County Commissioners upon such notice and terms as they may set at their discretion.
8. Parking of vehicles used to transport Class A or B explosives or flammable and combustible liquids is prohibited within 100 feet of a retail fireworks stand.
9. All weeds, dry grass, and combustible material shall be cleared for a minimum distance of 25 feet in all directions from the stand.
10. Electrical wiring shall be in a safe condition, and if found upon inspection to be unsafe shall be upgraded to comply with the applicable provisions of the national Electrical code adopted by the building codes bureau of the Department of Commerce.
11. Open flame devices of any kind are prohibited in retail fireworks stands, and within 25 feet of the stand.
12. Fireworks shall be displayed in such a manner that they are out of reach of the general public.
13. No one but employees shall be allowed inside the stand.
14. All fireworks stands will be subject to inspections by an appropriate rural fire district.
15. These regulations shall be posted in the stand along with the permit.
16. Fireworks may only be sold from June 24th to and including July 5 in any year.
17. After dismantling the stands, the sites must be completely cleaned up.
18. A violation of MCA, Title 50, chapter 37, Part I is punishable by a fine of not less than \$100 nor more than \$500 or, in the case of individuals, the members of a partnership, and the responsible officers and agents of an association or corporation, by imprisonment in the County jail of a period not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment.

MAY 27, 1992 (Cont.)

19. Applicants for permits must provide certificates of insurance. Bodily injury and property damage liability coverage shall be provided with limits or not less than \$100,000 combined single limit (CSL).
20. In addition to the penalties stated above, a conviction for violation of this resolution may also result in denial of license in the future. In order to initiate denial, the County Attorney's Office, at the request of the Sheriff or Fire Chief must give the licensee written notice of the violation and of a hearing before the County Commissioners not less than three (3) days before the hearing.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners has adopted these regulations to govern fireworks stands. This resolution shall remain in effect until or unless the state or federal government changes the laws in regard to the sale of fireworks or until it is superseded by another resolution of the Board of County Commissioners.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve Resolution No. 92-037, a resolution containing amended fireworks stand regulations. The motion carried on a vote of 3-0.

HEARING: Petition to Vacate Old GLO County Road (Frenchtown Area) Cummins

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor for the Clerk and Records Office, that a petition had been received to vacate "No present name (Old GLO County Road), located in Sections 17 and 20, Township 14 North, Range 20 West from the East R/W line of Old Highway 10 West at the intersection of Pulp Mill Road to the Frenchtown Frontage Road at the West end of Waldo Williams Road." The \$75.00 fee was paid May 13, 1992, receipt number 159629.

The reasons for this request are as follows: "Road goes nowhere and is not used." The following landowners were notified of the hearing: Jerry McGinnis, Montana State Department of Highways, Waldo and Doris Williams, Robert and Linda Cummins, Frenchtown Rural Fire and William and Vivian Lucier.

The hearing was opened to public comment.

Linda Cummins stated that they would like the road closed because it is not used. They would like to fence it off and use it as personal property.

Janet Stevens stated that a letter had been received by Jerry McGinnis who expressed his concern about the closure of the road.

Ann Mary Dussault said that a second letter had been received by Jerry McGinnis dated May 22, 1992, stating that he would not oppose the road closure if the road is divided equally between the landowners adjacent to the land. The letter reads as follows:

"I received a notice of your public hearing to consider vacation of the following road that borders my property on its South boundary and being I cannot be at this public hearing I wish for my comments to be made part of this meeting and considered accordingly in your decision.

"No present name (Old G.L.O. County Road), located in Sections 17 & 20, Township 14 North, Range 20 West from the East R/W line of Old Highway 10 West at the intersection of Pulp Mill Road to the Frenchtown Frontage Road at the West end of Waldo Williams Road."

My comments to this proposed vacating of this road are:

"If you are in favor of vacating this road I have no objection providing that each property owner will be granted the equal ownership of this roadway, which will in effect be added to each adjoining and abutting property in an equal amount."

I would imagine this would be the normal procedure for this transaction, but I just want to make this comment and request in case it is not. If this is not the case I go on record to oppose the vacation of this road at this time.

Thank you for making these comments a part of your hearing scheduled for May 27, 1992 at 1:20 p.m."

MAY 27, 1992 (Cont.)

Barbara Evans explained that by law, one of the Commissioners and the County Surveyor are required to inspect the requested vacation. She said the decision will be postponed until June 3rd.

DECISION ON: INTENT TO ESTABLISH THE GREENOUGH-POTOMAC VOLUNTEER FIRE DEPARTMENT & QRU FIRE SERVICE AREA

Barbara Evans explained that the hearing was closed to public comment; therefore, questions would be taken only from staff members.

Horace Brown, County Surveyor, showed by use of a map, the proposed Fire Service Area and the properties that wished to protest out of the area.

Janet Stevens stated that the Board had received a letter from the fire department to exclude the Vannoy property. She explained that if the fire service area is created today, there is a sixty day protest period in which if more than 50% protests, the service area would not be created and would therefore fail.

A general discussion ensued relative to the wording in the Statues regarding the procedure the Commissioners must follow when in receipt of a signed petition. A question was raised relative to the steps the residents would have to take towards abolishing the fire service area. Could the residents opposed to the service area merely petition the Commissioners to abolish it? It was concluded that to abolish the fire service area, it would first have to be created and established. When the Board receives a petition with 30 or more signatures of owners of real property, they are required by law to hear the request. If the service area is created by the Commissioners, there is a sixty day protest period upon which residents can protest by petition. If more than 50% of the property owners in the proposed fire service area protest it then fails. If less than 50% protest, the district remains created. If the district remains created and a petition to abolish the service area is received by the Commissioners, the public hearing process would be initiated again; the Commissioners would make the decision whether or not to dissolve the district. The residents could again protest the Commissioners decision.

Paul Laisy, Missoula Rural Fire District, explained that State law does not allow a fire district to enter into any aid agreements with a fire service area. Therefore, if a service area is created, there is no potential for this fire service area to enter into a Mutual Aid Agreement with Missoula Rural Fire District.

Mike Kemp, resident, stated that he had talked with a mechanic at Missoula Rural Fire. He indicated that once a fire service area is set up requiring fees, the fire engines, equipment, etc., can no longer be serviced by just anyone; they must be serviced by a certified shop. Therefore, the costs for equipment maintenance will go up drastically.

James Kellof, resident, asked if there had been a study conducted relative to the fees of the fire service area; will the fees provide for the operations of the service area? He also asked about the option of electing a fire chief.

Marnie McClain stated that there would be an election of qualified trustees to govern the affairs of the service area; the trustees would then hire the fire chief.

A question was raised relative to the raising of the fees and whether or not the residents would be notified. The trustees would determine the expenditures and expenses. A public meeting would be set up, at which time the residents could express opinion.

Rodney Vannoy, resident, stated that the prepared statement read by Russ Parrett at the last hearing on May 4th contained inaccurate comments and asked the Board to review the comments for accuracy.

Ann Mary Dussault said if the fire service area were created, the Board would have the discretion of indicating whether the Fire Board will be elected or appointed by the Commissioners. If the Board is elected, the Commissioners could establish the schedule of rates or fees. If the fees were to be raised, the issue would first have to be heard by the Commissioners. She asked about the service area incurring debt. Is there a limit that couldn't be exceeded?

Marnie McClain stated that the Statues allow the fire service area trustees may pledge the income of the fire service area to secure financing necessary to procure equipment and buildings to house the equipment. The outstanding amount of such indebtedness may not exceed 7% of the taxable evaluation of the area. The statues provide a limit for incurring debt.

MAY 27, 1992 (Cont.)

Janet Stevens asked why a rural fire district wasn't established?

Lelland Heisler, member of the fire board, stated that there was a movement that tried two years ago to set up a fire district. It was not something the majority of the residents wanted because they would be assessed a mill levy. The larger ranches in the area would be charged more taxes. He said when the law was passed that a fire service area could be established, it seemed to solve many of the issues. The initial petition that was submitted to Missoula County was changed to reflect the concerns of the residents such as the election of the board of trustees, no fee increase above a certain percent without a general vote of the people, etc.

James Kellof stated that a district was in the process of setting up a district when Mr. Parrett moved into the area. He felt that because Mr. Parrett installed a volunteer program, it shot down the idea of a district. He said two years were lost towards installing a district. He asked the Commissioners to consider the issue carefully so no more time is lost.

Janet Stevens asked Paul Laisy if the Rural Fire District could contract with the present fire company and charge them fees for the services rendered?

Paul Laisy stated that a district could contract with an area for the same rate based on the value of the property that it would cost if they belonged to the fire district. He said that typically, a piece of property, including land and buildings, worth \$100,000 would be assessed a mill levy of \$100 a year.

Barbara Evans asked if the fire service area fails, would fire protection still be available as it presently is?

Russ Parrett, Fire Chief, stated that it depended on the donations which have been dwindling. The Board felt that they could not continue to provide without some specific budget. Because the QRU unit was unable to afford the cost of insurance, the fire department picked up this cost. He said in the continuing effort to upgrade and get the basic equipment, there is no funding available at this time.

Barbara Evans stated that she is not convinced that the fire service area can provide adequate coverage to the people in this district due to the condition of the roads and the difficulty reaching certain places. She said that she is not willing to vote to create the fire service area.

Russ Parrett stated that with the all-wheel drive engine that the department now has, they can adequately serve the area. Rural departments in other areas face the same situation and they feel they are doing an adequate job serving the residents.

Janet Stevens asked the residents who petitioned to be removed from the proposed service area, if they would be a part of a fire district.

Walter Vannoy stated that he would be a part of a fire district if it remained voluntary. He said that he didn't believe that even a fire district in this area would be sufficient to provide the needed fire service.

Janet Stevens stated that the fire district wouldn't remain voluntary. She asked how the Bear Creek residents felt about a fire district as opposed to a fire service area.

A Bear Creek resident commented that at this time they are looking at contracting with the Rural Fire District. But he said that the same problem occurs--response time.

Dave Slaughter asked if there could be a volunteer fire district.

Janet Stevens stated that an area can have a rural fire district; however, fees would be assessed.

It was commented that the fees for a fire district would be much higher than a fire service area.

Russ Parrett stated that Missoula Rural Fire District is twice as far from Bear Creek as the station that would serve that area.

Ann Mary Dussault asked Paul Laisy to describe the creation of a rural fire district; is a petition required?

Paul Laisy said that boundaries would have to be established for the proposed district and a petition containing more than 51% of the landowners signatures.

MAY 27, 1992 (Cont.)

Ann Mary Dussault suggested action be postponed on the issue and that a specific time be set sufficient for the gathering of signatures to create a rural fire district. If that fails, then the Board could act on the proposed fire service area.

Barbara Evans stated that she would find that easier to support.

Russ Parrett stated that the fire company already tried to set up a district. They held public meetings and he felt it was the consensus of the community that a district was not wanted; rather, a fire service area was more agreeable to them.

Those present in the audience indicated at this point that they did not agree with the statement made by Russ Parrett.

Ann Mary Dussault moved and Janet Stevens seconded the motion to postpone the decision on the Intent to create a Fire Service Area for the Greenough-Potomac area until September 9, 1992. Absent a petition to create a rural fire district, the Board of County Commissioners will bring this issue back onto the Agenda for action. The motion carried on a vote of 3-0.

Marnie McClain stated that the protest period would not begin until a decision is made regarding this issue.

Ann Mary Dussault explained that the intent of the motion is to allow people time to petition to create a rural fire district if they so choose.

A general discussion ensued relative to the boundaries of a fire district area. The residents will need to decide among themselves what the boundaries will be. A question was asked relative to the costs of a rural fire district versus the fire service area. A comment was made that most of the ranchers were against a fire district because the brunt of the cost would be on them.

Ann Mary Dussault explained that the difference between a rural fire district and a fire service area. In a rural fire district, all property is assessed to achieve the budget. The fire service area assesses only structures. She said she felt that the residents of this area who don't like the option of a fire service area are willing to look at a fire district. She said her feeling is to let the residents decide for themselves which option they want.

Janet Stevens asked how many property owners reside in this area?

Vickie Cromwell, Recording Supervisor, Clerk and Records Office, stated that the department had sent out 783 postcards or tax bills into this area.

Janet Stevens asked how many requests were received asking to be out of the proposed fire service area?

A discussion ensued relative to the number of petitioners wanting to be out of the service fee area. Mr. Vannoy's petition contained over 95% of the 30 residents petitioned. It was concluded by looking at a map that showed which residences wanted out of the service area, that of the entire district, it appeared not more than 50% of the residents actually wanted out.

A discussion followed relative to what the Commissioners were doing at this meeting. The Commissioners are not mandating anything; they are giving the landowners the option of 1) creating a rural fire district which has a mill levy attached to it determined by the elected Board of Trustees; or 2) creating a fire service fee area; the cost being determined by the structures; or 3) protesting and doing nothing at all. If the landowners don't wish to pay anything, a rural fire district or a fire service area doesn't have to be formed. The residents can also contract with Missoula Rural Fire if the fire company still exists.

There being no further business to come before the Board, the meeting was recessed at 2:20 p.m.

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MAY 28, 1992

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

MAY 28, 1992 (Cont.)Audit List

Commissioners Dussault and Stevens signed the Audit List dated 5/27/92, pages 6-37, with a grand total of \$253,744.93. The Audit List was returned to the Accounting Department.

Indemnity Bond

Acting Chair Dussault examined, approved, and ordered filed an Indemnity Bond naming Marlene Simms as principal for Warrant #54834, dated May 8, 1992, on the Missoula County High School Payroll Fund, in the amount of \$507.78, now unable to be found.

Indemnity Bond

Acting Chairman Stevens examined, approved and ordered filed an Indemnity Bond naming Jenni Lynn Jopling as principal for Warrant #34800, dated May 7, 1992, on the Clerk of Court's 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 item was signed:

Agreement


The Board of County Commissioners signed an Agreement between Missoula County and Michael and Agnes L. Lapinski, of Alberton, MT., whereby the County agrees to provide (2) 10 cubic yard dump truck loads of 1" minus crushed gravel in exchange for approximately 186 cubic yards of riprap slope protection material that remains from the 294 cubic yards purchased from Charles A. Barnette III and Rosanne Barnette Pit located in Tract "I" COS 113, N W 1/4 of Sec. 7, T. 14 N., R. 23 W., PMM, Missoula County, as per the terms set forth. The Agreement was returned to Chuck Wright in the Surveyor's Office for further signatures and handling.

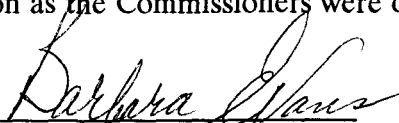
The minutes of the daily administrative meeting are on file in the Commissioners Office.

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MAY 29, 1992

The Board of County Commissioners did not meet in regular session as the Commissioners were out of the office all day.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

* * * * *

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. In the morning, Commissioner Dussault spoke to an 8th Grade Class at Meadow Hill School; and late in the forenoon, Commissioner Evans attended the dedication of the New Attention Home at the Old Shady Grove site.

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 between the City of Missoula and Missoula County for the purpose of the construction, operation and maintenance of a back-up generator and building for the Reserve Street Lift Station (Project No. 91-001 Reserve Street Interceptor) on Larchmont Golf Course property, subject to the conditions set forth in the Easement. The Easement was forwarded to the City for further signatures.

Replacement Bond

Chairman Evans signed Bond #54 in the amount of \$1,640,000.00 for the County of Missoula, Hospital Revenue Refunding & Improvement Bond, Series 1978, 7.125%, due 6/1/07 (Missoula Community Hospital Project), to replace Missoula County Hospital 1978 RV IMP, partial call of registered bond. The bond was returned to Mike Sehestedt, Deputy County Attorney, for further handling.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Sonju's Office Management of Seeley Lake, an independent contractor, to provide secretarial, clerical & administrative duties as required or requested by the Seeley Lake Refuse Disposal District, as per the terms set forth, for the period from 7/1/92 to 6/30/93 at a rate of \$9.00 per hour.

Extension Letter

The Board of County Commissioners signed a letter to Nick Kaufman approving a 180-day filing extension for the Strathmore Park subdivision in accordance with the recommendation of the Community Development Staff based upon Article 4-27A which recommends an additional extension time of 180 days, making the new filing deadline November 18, 1992.

Other items included:

The Commissioners discussed a request from John Milodragovich for permission or County assistance to trim a willow bush located in the road right-of-way in order that he might have better access to his property; the Commissioners gave approval for trimming by the County or a professional, but not for Mr. Milodragovich to trim the bush himself.

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

Site Inspection

In the late forenoon, Commissioner Dussault accompanied County Surveyor Horace Brown on site inspections of the Old GLO County Road in the Frenchtown area and a road in the Clinton area.

* * * * *

JUNE 2, 1992

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

Acting Chair Dussault examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael D. Morris, for month ending May 29, 1992.

Monthly Report

Acting Chair Dussault examined, approved and ordered filed the Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for month ending May 20, 1992.

DAILY ADMINISTRATIVE MEETING

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

Noxious Weed Trust Fund Project Grant Agreement

Acting Chair Dussault signed the Noxious Weed Trust Fund Project Grant Agreement between the Montana Department of Agriculture and the Missoula County Weed District for the purpose of containing and reducing noxious weed infestations in the Lower Ninemile Valley Weed Management Project area (Number MDA 92-30), as per the terms set forth to June 30, 1994, with 541 acres targeted for treatment and a total payment to the Project Sponsor of the maximum amount of \$12,000.00. The Agreement was returned to Jerry Marks in the Extension Office for further signatures and handling.

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

* * * * *

JUNE 3, 1992

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

Audit List

Commissioners Dussault and Stevens signed the Audit List, dated June 3, 1992, pages 6-29, with a grand total of \$99,067.02. The Audit List was returned to the Accounting Department.

WEEKLY PUBLIC MEETING

The meeting was called to order at 1:35 p.m. by Acting Chair Ann Mary Dussault. Also present was Commissioner Janet Stevens.

DECISION ON: PETITION TO VACATE OLD GLO COUNTY ROAD (FRENCHTOWN AREA)

Ann Mary Dussault explained that a petition had been received by the Clerk and Recorder's Office to vacate "No present name (Old GLO County Road), located in Sections 17 and 20, Township 14 North, Range 20 West from the East R/W line of Old Highway 10 West at the intersection of Pulp Mill Road to the Frenchtown Frontage Road at the West end of Waldo Williams Road." The \$75.00 fee was paid May 13, 1992, receipt number 159629.

The reasons for this request are as follows: "Road goes nowhere and is not used." The following landowners were notified of the hearing: Jerry McGinnis, Montana State Department of Highways, Waldo and Doris Williams, Robert and Linda Cummins, Frenchtown Rural Fire and William and Vivian Lucier.

Horace Brown, County Surveyor, stated that he and Ann Mary Dussault had inspected the road June 1, 1992. He said that the road was being used as a field road from the west end to the interstate; the east side is not being used at all. He said that a letter had been received by Jerry McGinnis expressing concerns that he get his share of the land to be vacated so that he would have access to his property.

Linda Cummins asked the Board to approve the request.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the request to vacate "No present name (Old GLO County Road), located in Sections 17 and 20, Township 14 North, Range 20 West from the East R/W line of Old Highway 10 West at the intersection of Pulp Mill Road to the Frenchtown Frontage Road at the West end of Waldo Williams Road." The motion carried on vote of 2-0.

HEARING: PETITION TO VACATE BAY MEADOWS ADDITION

Ann Mary Dussault explained from information received from Vickie Zeier, Recording Supervisor, Clerk and Records office that a petition to vacate "Bay Meadows Addition, a platted subdivision of Missoula County, Montana located in the NE 1/4 of Section 21 and the NW 1/4 of Section 22, Township 14 North, Range 20 West, P.M.,M."

The reason for this request is as follows: "So that Bay Meadows Addition can be re-platted as Spring Meadows Addition, in full conformance with the final approval of said plat granted by the Board of County Commissioners."

The following interested parties were notified of the hearing: David Theisen, First Security Bank and Mullan Trail Enterprises.

The hearing was opened to public testimony.

Barbara Martens, Office of Community Development, stated that the vacation request is a formality to cover a condition of subdivision approval of Spring Meadows.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the request to vacate "Bay Meadows Addition, a platted subdivision of Missoula County, Montana located in the NE 1/4 of Section 21 and the NW 1/4 of Section 22, Township 14 North, Range 20 West, P.M.,M." The motion carried on a vote of 2-0.

CONSIDERATION OF: BLUE MOUNTAIN MEADOW (SUMMARY PLAT)

Barb Martens, Office of Community Development explained that Blue Mountain Meadow is the proposed subdivision of 5.30 acres into four lots. The lots range in size from one acre to 2.22 acres. The property is located west of Blue Mountain Road, south of Wornath Road and north of Evergreen Road. Individual sewage disposal systems and wells are proposed. The property is within Zoning District No. 18.

The Office of Community Development staff recommends that Blue Mountain Meadows Summary Plat be approved subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. Cash-in-lieu of parkland shall be paid to the County Park Fund.
3. The developer shall provide easements for utilities in the appropriate areas.
4. The developer shall initiate an RSID to meet the paving requirements of Section 3-2 (1) for both Wornath and Evergreen Roads. If the RSID fails, the developer shall pave both Wornath and Evergreen Roads to their furthest access point within this subdivision.
5. Grading, drainage, erosion control and road plans shall be approved by the County Surveyor.
6. The developer shall provide a one foot no access strip along the easterly boundary of Lots and 2.
7. The developer shall dedicate an additional 10 foot road easement along the easterly boundary of Lots 1 and 2.

She said Condition No. 4 is closely related to the following variance request:

The developer is requesting a variance to Section 3-2 (9) requiring that off-site roads within 500 feet of the nearest publicly maintained paved roadway must be paved.

The developer states that gravel roads serve the existing subdivision and to require paving of a single owner would be prohibitive. The developer requests instead the requirement that a statement be placed on the face of the plat waiving the right to protest a future RSID for the upgrading of Wornath and Evergreen Roads.

The Staff recommends the variance request be denied for the following reasons:

(1) this subdivision is within the "Air Stagnation Zone". She referenced a letter from Jim Carlson, Environmental Health Director of the City/County Health Department which addressed specific air quality concerns relative to road paving as follows:

"Based upon requirements established by the federally approved 1977 State Implementation Plan for the Control of Particulate Matter in the Missoula Area, the Missoula City-County Health Department recommends that the subdivision requirements be fully enforced. In other words, we recommend that Missoula County approve this subdivision with the condition that the access to Blue Mountain Road on Wornath and Evergreen be paved to Missoula County standards.

Enforcement of these requirements is extremely important. Continuing to allow increased use of existing unpaved roads or the construction of new unpaved roads jeopardizes Missoula's ability to maintain compliance with the annual PM-10 standard.

Furthermore, the 1992 Clean Air Act requires that local agencies provide for control mechanisms which insure maintenance of air quality standards into the future";

(2) the roadways serve more than three single family dwellings; and

(3) the 1990 Missoula Urban Comprehensive Plan Update, designates the subject site as suitable for "Suburban Residential", which provides for a density of two dwelling units per acre. In addition the Plan update states: "Given the unchanging nature of wintertime meteorological and topographical conditions, improvements in air quality can only be achieved by altering the human activity which creates the emissions...Other local actions taken to improve air quality include improving traffic flow on high volume streets through signal timing and road improvements, adoption of the "super good cents" construction standards for new electrically heated homes and requiring roads and parking areas to be paved." The following goal is proposed related air quality - "Specify design standards for new development which limit particulate emissions."

The hearing was opened to public comment.

Nick Kaufman, of Sorenson and Company, representing the developers, Cecilia Van Allen, Vincent Marciano and Elizabeth Marciano, stated that they whole-heartedly agreed with the goal of paving the roads. He showed the Board an aerial photo of the area taken in 1989. He said that Mr. Carlson's comments were provided by Barb Martens, but were not received by the developers. He said these comments were received late and therefore, there was a last-minute attempt to try to incorporate the comments. He explained that on May 15th, the developers investigated an RSID to pave both Wornath and Evergreen Roads. Assuming the special improvement bonds would sell for 6% interest with 15 year bonds and 15 homeowners, the first year SID payment for Evergreen Road only would be \$850.00. First year payments for both Evergreen and Wornath would be \$1,150 if everyone would participate in the RSID. If the subdivision developers were to assess the \$54.00 a linear foot road cost to each lot owner of the subdivision and not apply any of the interest rate charges, the cost would be around \$79,000 spread among the four lots. The first SID payment would be \$3,600. If the developers are required to pave the roads, they will not be able to do the subdivision. He stated that if the developers do not do the subdivision, the total cost of paving Wornath and Evergreen Roads stays the same; there would be three fewer lots participating in the SID and the payments for each lot owner would go up. He requested that the Commissioners require a waiver of the right to protest the creation of an SID. Four lots out of the total 15 lots in the area would waive their right to protest the creation of an SID. He said any future COS or subdivision will be reviewed by the Board and could be required to waive their right to the SID. He said that by doing this subdivision, the objective of paving the two roads is met.

He explained that the developers intend to sell lots 1 and 2 immediately and in the future sell lot 4; keeping lot 3 in order to build a home for themselves.

He asked that Condition No. 4 be modified to read, "The developer shall initiate a RSID to meet the paving requirements of Section 3-2 (1) for both Wornath and Evergreen Roads. If the RSID fails, the developer shall waive his right to protest the creation of a future RSID."

Relative to the configuration of Lot 3, he explained that the developers originally intended to keep the views open for their home. However, due to soil constraints, the drainfield and the home could not be placed on that particular portion of the property. The developers agreed to cut the bottom portion of lot 3 and add the half acre onto lot 4 so that lot 3 is not "double fronted" on two roads.

A general discussion ensued relative to the cost of paving the two roads from the subdivision to the intersection of Blue Mountain Road. It is approximately 3,300 linear feet of paving.

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

Janet Stevens asked if the criteria have been met to grant the variance?

Ann mary Dussault said that it has been common practice to grant the variance if the road services three residences or less.

Michael Sehestedt, Deputy County Attorney, explained that the regulations say the Board may grant paving variances if warranted. However, if the subdivision exists within the Air Stagnation Zone, the unpaved road may not serve more than three single family dwellings. He said that clearly the regulations are directed toward a new road; for example, a subdivision creating internal subdivision roads would be required to pave the roads. However, this specific situation is not addressed in the regulations. The Board can fall back on the general regulations which allow the Commissioners to use their judgement of the impacts of requiring or not requiring paving. If the limiting exception is dropped out, as it is directed to the creation of new roads, basically, under the general rules, the Board may grant a variance if in their opinion, it is warranted. All of the facts would be weighed, including air pollution and impacts.

Ann Mary Dussault explained that because she has served on the Air Pollution Control Board, she would guess if the Board was asked to clarify what they intended, they would suggest the more narrow of interpretations. When there is a single instance, the impact may not be measurable; the trouble comes when there are numerous circumstances, which cause a cumulative effect, which actually has a significant impact on the ability to control PM-10. She said that economics are generally not accepted as an argument for a variance. The economics of the situation may be real; however, they are not generally persuadable.

Michael Sehestedt stated that requiring the developers to pave the section would reduce particulate count in the area, even if it only served a few homes.

A general discussion ensued relative to different methods that could be used so the developer is required to pave only one street. It was suggested that the developer put in a cul-de-sac to serve the four lots and would access only one road.

Nick Kaufman stated the developer did not want to do this because it would create more road area just to service four homes; this would require more cost and maintenance. He said if the road was paved just 200 feet, it would in essence be a dirt road because of all the construction going on in this area. The effect of paving would be lost. He said it would be much better to get these people to participate in the SID so that in the future the road can be paved. Their contribution would be very small relative to the others because they would be so close to the paved road. He said everyone is trying to get one thing accomplished; the goal of paving the roads. He said if the Board does not allow any splits unit the road is paved, the road will never get paved.

Ann Mary Dussault said that the reality is that the Board does not have the power to require participation in an RSID for the paving. She said to her knowledge, it is questionable whether the power exists for the Commissioners to require a waiver of the RSID for a Certificate of Survey. Therefore, if COS activity continues in this area, the Board has no power to enforce an RSID. The Board has the power to control that kind of activity, which creates these impacts, by requiring paving of roads. More is demanded of developers who go through the subdivision process than the Certificate of Survey.

Nick Kaufman stated that by denying the subdivision, the goal of paving these roads is no closer. He said the intent is clearly towards getting the road paved in the future.

Ann Mary Dussault stated that the intent of the Board is clearly not to allow further construction unless access is paved or the access is to three or fewer lots.

A discussion ensued between Janet Stevens and the Legal staff; it was concluded that actually two lots are effecting one road and two the other road. There is no one road that is serving three or more lots. Therefore, because there are two lots per road, the regulations would allow the paving variance. The developer agreed to re-align Lot 3 to exclude the "flag" so that the lot does not front on two roads.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve Blue Mountain Meadows Summary Plat subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. Cash-in-lieu of parkland shall be paid to the County Park Fund.
3. The developer shall provide easements for utilities in the appropriate areas.
4. The developer shall initiate an RSID to meet the paving requirements of Section 3-2 (1) for both Wornath and Evergreen Roads. If the RSID fails, the developer shall waive the right to protest an RSID.
5. Grading, drainage, erosion control and road plans shall be approved by the County Surveyor.
6. The developer shall provide a one foot no access strip along the easterly boundary of Lots 1 and 2.
7. The developer shall dedicate an additional 10 foot road easement along the easterly boundary of Lots 1 and 2.

Lots 1 and 3 will access Wornath Road; Lots 2 and 4 will access Evergreen Road. The lot line for Lot 3 will be re-drawn to exclude the "flag". The motion carried on a vote of 2-0.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the paving variance for Blue Mountain Meadows Summary Plat since there are less than three lots accessing either road, which meet the variance criteria. The motion carried on a vote of 2-0.

CONSIDERATION OF: LINDA VISTA SEVENTH SUPPLEMENT PHASE 2 (FINAL PLAT)

Barbara Martens, Office of Community Development, explained that Linda Vista Seventh Supplement, Phase 2 is located in the SW 1/4 Section 12, Township 12 North, Range 20 West, between Upper and Lower Miller Creek Roads, at the end of Linda Vista Boulevard. Phase 2 consists of thirty-three (33) lots on 17.81 acres. The Board of County Commissioners approved the entire Linda Vista Seventh Supplement for 121 single family lots on 70 acres on December 18, 1991. Since that time Linda Vista Seventh Supplement, Phase I was approved by the Board of County Commissioners in April of 1992. Phase 1 consisted of 4 single family lots on 2.07 acres.

The Community Development Staff recommends that the final plat of Linda Vista Seventh Supplement, Phase 2 be approved subject to the following conditions:

1. Sanitary restrictions be lifted by State and local health authorities.
2. Linda Vista Boulevard shall be constructed to the standards in Article 3-2(8)(C), "Local Street 51-200 Dwelling Units." The road right-of-way shall be 60 feet wide, the road pavement width -- face-to-face of curb -- shall be 40 feet wide. Linda Vista Boulevard shall be constructed, in its entirety, to standards approved by the County Surveyor, within nine months of the filing of Linda Vista 7th Supplement, Phase I, or no later than the end of 1992, and that each section of road will be paved as the subdivision phases are completed (as weather allows). Should dust abatement be required as determined by the County Surveyor, the developer will provide it.

If the area of the proposed subdivision is in the Air Stagnation Zone, the Board will require dust abatement to be mandatory.

The hearing was opened to public comment.

Chip Johnson, of Druyvestein, Johnson and Anderson representing the developer, was present. He said that this year they plan to construct Linda Vista Boulevard to Miller Creek Road.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve Linda Vista Seventh Supplement, Phase 2, Final Plat subject to the conditions as follows:

1. Sanitary restrictions be lifted by State and local health authorities.
2. Linda Vista Boulevard shall be constructed to the standards in Article 3-2(8)(C), "Local Street 51-200 Dwelling Units." The road right-of-way shall be 60 feet wide, the road pavement width -- face-to-face of curb -- shall be 40 feet wide. Linda Vista Boulevard shall be constructed, in its entirety, to standards approved by the County Surveyor, within nine months of the filing of Linda Vista 7th Supplement, Phase I, or no later than the end of 1992, and that each section of road will be paved as the subdivision phases are completed (as weather allows). Should dust abatement be required as determined by the County Surveyor, the developer will provide it.

If the area of the proposed subdivision is in the Air Stagnation Zone, the Board will require dust abatement to be mandatory.

The motion carried on a vote of 2-0.

CONSIDERATION OF: CLARK FORK ESTATES PHASE FOUR (FINAL PLAT)

Barbara Martens, Office of Community Development, explained that Clark Fork Estates Phase 4 is located in the SW 1/4 of Section 14, T13N, R20W, south of Mullan Road and east of Sunset Memorial Gardens. At the public meeting on January 22, 1992, the Board of County Commissioners approved the preliminary plat for Clark Fork Estates Phase 4. Phase 4 consists of 8 single-family lots on 8.8 acres. The property is bordered by Valley Estates on the west, Clark Fork Estates on the north, the Frey residence on the east and agricultural land/floodplain on the south.

The preliminary plat was approved subject to 10 conditions. All conditions have been addressed.

The Community Development staff recommended that the final plat of Clark Fork Estates Phase 4 be approved.

The hearing was opened to public comment.

Andy Fisher, Eli and Associates, representing the developer was present.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve Clark Fork Estates Phase 4 Final Plat. The motion carried on a vote of 2-0.

OTHER BUSINESS: HIGHLAND PARK

Fritzy Yonce, presented the Board with a petition that reads as follows:

"Twenty (20) plus years ago, MOSBY'S LEISURE HIGHLANDS, (A.J. Mosby, President), donated to Missoula County, an 18 acre parcel of park land, as required by law. This park, known as Highland Park, is located east of Highland Park Drive, south of Pineridge Drive, and north of Ben Hogan Drive. This 18 acre park has had absolutely nothing done to it in the 20 plus years the County has owned it. It is now overgrown with unsightly weeds, tall grass and an over-abundance of small pine trees, all of which constitute an extreme fire hazard. The County Commissioners have been asked, repeatedly, to clean up the above mentioned park; but to no avail. This park area becomes an extreme fire hazard in the summer, endangering the homes that adjoin said park. Late last summer, during the height of the fire season, some young boys built a camp and a fire in the park, the fire was not discovered until 3:30 a.m. Had it not been for Robert Hinshaw, our homes may have been destroyed.

THEREFORE, We the Taxpayers and property owners surrounding Highland Park, do hereby PETITION the County Commissioners of Missoula County; Ann Mary Dussault, Barbara Evans, and Janet Stevens, to take immediate action to clean up Highland Park and to put signs around the park, restricting motorized vehicles, overnight camping and the building of fires."

Ann Mary Dussault asked if there was a homeowners association.

Fritzy Yonce explained that there used to be one, but it had dwindled over the years.

A general discussion ensued relative to the funding of parks from the County. The only park that is maintained by Missoula County is Fort Missoula. All of the neighborhood parks are taken care of by neighborhood associations. Also, there is a matching fund for improvements from the County Park Board.

Fritzy Yonce said that some Boy Scouts would like to use the park in order to earn a badge.

Homeowners can help the group by putting together a project or plan for the park. The Park Board itself does the granting of money, both in-kind and monetary matches from the homeowners up to a maximum of \$2,000 a year. Year to year the park could be funded in this way. Volunteers and donations could also be considered as a match for either money or in-kind expenses.

The Commissioners asked that Fritzy Yonce talk to Horace Brown, Park Board President and Jim Dopp, Operations Officer, who is also on the Park Board.

Ann Mary Dussault suggested that the residents work up a long-term plan.

Janet Stevens explained that the County will not take over the maintenance of the park.

It was suggested that the residents also talk with Jeff Stevens who lives in the Bellview/Wapikiya area, and has utilized the park fund for many years.

There being no further business to come before the Board, the meeting was recessed at 2:25 p.m.

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JUNE 4, 1992

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 item was signed:

Addendum to Agreement

The Board of County Commissioners signed an Addendum to supplement the Agreement of August 1, 1991, between Larchmont Golf Course, an enterprise fund of Missoula County, and Wayne Heintz, Golf Course Superintendent, adding the following sentence at the end of Section Two - Fees of the Agreement, with all other terms and conditions remaining unchanged:

"In addition to the payments called for above, Golf Course agrees to pay on behalf of Superintendent an amount equal to the contribution County makes for half-time County employees to the County medical benefits plan in the event Superintendent elects to enroll or continue his enrollment in the County medical benefit plan."

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


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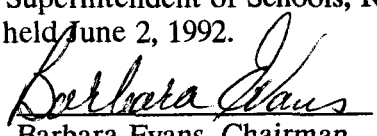
JUNE 5, 1992

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

Election Canvass

In the forenoon, Commissioners Dussault and Evans, and County Superintendent of Schools, Rachel Vielleux, canvassed the results of the Primary Election which was held June 2, 1992.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

* * * * *

JUNE 8, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, David K. Clark, for month ending May 31, 1992.

DAILY ADMINISTRATIVE MEETING

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

Amendment to Professional Services Contract

The Board of County Commissioners signed an Amendment to a Professional Services Contract between the County Health Department and Jeanne Sheils Twohig, amending the contract as follows:

#3. Change dates from March 4, 1992 - June 1, 1992, to March 4, 1992 - June 30, 1992.

Add: To complete substantial application rewrite between May 25 and 29 based on guidance from technical assistant.

Add: To rework, as necessary, any portion of MUP designation request.

#4. Change total from \$4,000 to \$5,000. Line 7 of #4 shall read: \$2,500 upon receipt of CHC final application.

The Amendment was returned to the Health Department for further signatures and handling.

Resolution No. 92-043

The Board of County Commissioners signed Resolution No. 92-043, a resolution to vacate "No present name" (Old G.L.O. County Road) located in Sections 17 and 20, T. 14 N., R. 20 W., PMM, Missoula County, from the East R/W line of Old Highway 10 West at the intersection of Pulp Mill Road to the Frenchtown Frontage Road at the West end of Waldo Williams Road.

Acceptance of Grant Award

Chairman Evans signed acceptance of a grant award (No. 92-16157) from the Board of Crime Control to the Missoula County Sheriff's Office for the period from 7/01/92 to 6/30/93, with the grant total being \$161,568.00. The document was returned to Undersheriff Larry Weatherman for further handling.

Other items included:

The Commissioners appointed Susan K. Brown as the Third Alternate member of the Missoula County Park Board to serve through May 3, 1993.

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

Jail Inspection

In the afternoon, the Commissioners and Health Department personnel conducted an inspection of the Missoula County Jail.

* * * * *

JUNE 9, 1992

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:

Extension Letter

The Board of County Commissioners signed a letter to Nick Kaufman of Sorenson & Company approving a one-year filing extension for Strathmore Park - Preliminary Plat, making the new filing deadline May 17, 1993; this replaces the letter of June 1, 1992.

Resolution No. 92-044

The Board of County Commissioners signed Resolution No. 92-044, resolving that pursuant to Sections 7-4-2107, 7-4-2503, and 7-4-2504 of the MCA, as amended, effective July 1, 1992, the annual salaries of certain elected County officials are fixed as follows:

Clerk of the District Court	\$34,250.54
County Auditor	\$34,250.54
County Surveyor	\$34,250.54
County Commissioner	\$36,250.54
Clerk & Recorder/Treasurer	\$41,100.65
County Superintendent of Schools	\$36,250.54
County Attorney	\$54,913.40
County Sheriff/Coroner	\$44,815.45

Resolution No. 92-045

The Board of County Commissioners signed Resolution No. 92-045, resolving that pursuant to Section 3-10-207, MCA, as amended, effective July 1, 1992, the annual salaries of the Missoula County Justices of the Peace are fixed at \$34,700.54.

Other items included:

- 1) the Commissioners approved a request from Laura Millin, Director of the Museum of the Arts, that Missoula County will provide liability coverage for members of the Board of Directors of the Missoula Museum of the Arts Foundation while they are lawfully acting for or on behalf of the Foundation to benefit the Missoula Museum of the Arts, subject to the same terms and conditions that apply to employees and officials of Missoula County; and
- 2) the Commissioners gave approval to proceed with the Larchmont Golf Course building project to the bid stop point, but a decision regarding the sewer has not been made.

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

* * * * *

JUNE 10, 1992

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 6/9/92, pages 6-30, with a grand total of \$181,963.93. 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:

Plat

The Board of County Commissioners signed the Plat for Patton Estates, Lots 4A, 4B, and 4C, an amended subdivision plat located in the NE 1/4 of Section 13, T. 12 N., R. 20 W., PMM, Missoula County, with the owners of record being Ronald M. and Cathleen Corr.

Warranty Deed & Settlement Statement

The Board of County Commissioners signed a Warranty Deed & Settlement Statement from Missoula County to Wayne and Dorothy Knutson for Lot 19 in Grantland 12, Missoula County. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Warranty Deed & Settlement Statement

The Board of County Commissioners signed a Warranty Deed & Settlement Statement from Missoula County to H.C.P. Corporation, a Montana Corporation, for Block 2, Hillview Heights #6. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and the Twite Family Partnership for the purpose of working in a cooperative effort to facilitate the construction of a sewer interceptor to serve the Lower Miller Creek area, as per the specific terms set forth in the Agreement.

Agreement to Sell and Purchase with Addendums

The Board of County Commissioners signed an Agreement to Sell and Purchase with two (2) addendums attached, between Missoula County and Tim & June Marek for Lot 12, Block 5, Donovan Creek Acres, (the address being 16320 Pine Tree Lane in Clinton, MT) Missoula County, for a total purchase price of \$16,600.00, as per the special provisions set forth. The documents were returned to Jim Dopp, Operations Officer, for further handling.

Underground Electric Right-of-Way Easement

The Board of County Commissioners signed a right-of-way easement for underground electric installation between Missoula County and Montana Power Company, whereby the County grants an easement 10 & 20 feet in width upon which to construct, operate, maintain, replace and remove an electric powerline, communication system and necessary appurtenances over, under, along and across that certain property located in the SE 1/4 SW 1/4 of Section 33, T. 13 N., R. 19 W., PMM, Michelle Addition, the south 20 feet of Lot 2 together with the 10 feet adjacent and parallel to Artemos Drive within Lot 1. The Easement was returned to George Horvath, P.E., at Montana Power Company.

Other items included:

- 1) the Commissioners denied a request from Sheriff Doug Chase to purchase radios as per his memo of June 10, 1992; and
- 2) a request from the Frenchtown School District to relocate the school's well on County property located between Mullan Road and Interstate 90 was discussed; it was agreed that a lease could be negotiated and the request was referred 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 meeting was called to order at 1:35 p.m. by Chairman Barbara Evans. Also present were Commissioners Ann Mary Dussault and Janet Stevens.

BID AWARD: TYPEWRITER MAINTENANCE (CENTRALIZED SERVICES)

Barbara Evans explained from information received from Billie Jette, Centralized Services, that bids were received June 8th for the typewriter maintenance for FY'93 and are as follows:

Delaney's Cost Plus typewriter	\$4,232.50 - 91 IBM; 1 Brother
Hudson's Quality Office Machines	\$1,913.00 - 20 Canon Typewriters

Tech Service Company

\$4,413.50 - 91 IBM Typewriters

Staff recommends that the bid be awarded to Delaney's Cost Plus in the amount of \$4,232.50 for the IBM and Brother typewriters; award Hudson's Quality Office Machines the Canon typewriter maintenance for \$1,913.00, for a total combined maintenance charge of \$6,145.50. The bid comes below the FY' 93 budget of \$8,000.00.

Janet Stevens moved and Ann Mary Dussault seconded the motion to award the bid for typewriter maintenance as recommended by Centralized Services to Delaney's Cost Plus for 91 IBM and 1 brother typewriter in the amount of \$4,232.50; and Hudson's Quality Office Machines for 20 Cannon typewriters in the amount of \$1,913.00, for a total combined maintenance charge of \$6,145.50 as the lowest and best bidders. The motion carried on a vote of 3-0.

BID AWARD: GAS & DIESEL FUEL (ROAD DEPARTMENT)

Barbara Evans explained from information received from Robert Holm, Operations Superintendent of the Road Department, that bids for gas and diesel fuel were opened Monday, June 8, 1992 at 10:00 a.m. with the following results:

Finest Oil Co.	\$85,911.00
Tremper Distributing	\$86,180.00
Cenex	\$87,841.35
JGL Distributing	\$88,053.00

Bob Holm, recommended that the bid be awarded to the lowest and best bidder, Finest Oil Co. for \$85,911.00. \$95,000 was budgeted for gas and diesel for fiscal year 1992-93.

Ann Mary Dussault moved and Janet Stevens seconded the motion to award the gas and diesel fuel bid to Finest Oil Company in the amount of \$85,911.00 as the lowest and best bidder. The motion carried on a vote of 3-0.

BID AWARD: ONE (1) NEW STANDARD DUTY 4X4 1/2 TON PICKUP (WEED)

Barbara Evans explained from information received from William Otten, Weed District Supervisor, that \$15,000 was budgeted in the Weed District budget for one 1/2 ton pickup. the following bids received were as follows:

Karl Tyler Chevrolet	\$13,670.00
Grizzly Auto Center	\$12,573.00
Bitterroot Motors	\$ 9,498.00

The bid received from Bitterroot Toyota in the amount of \$9,498.00, is considerably below the budget. The truck will replace the 1977 Ford F250.

A mathematical error was found in the Bitterroot bid. After conferring with Mike Sehestedt, Deputy County Attorney, a letter of explanation that reads as follows, explains the nature of the error and that it is a conforming bid.

"June 8, 1992

To: Board of County Commissioners Missoula County
Subject: Weed District Bid No. 9205-14

The type written bid proposal for the above bid contained an error in subtraction. The attached handwritten copy contains the correct figures for the bid. Please accept our apologies for the error and accept this attached sheet as our bid.

Sincerely,
Rick Snowden

cc. Bill Otten"

Mike Sehestedt explained that the bid called for a price on a truck with various allowances and the trade-in. A subtraction error was made. It is clearly a mathematical error and allowing Bitterroot Toyota to correct the error doesn't evade the competitive bid process.

Janet Stevens moved and Ann Mary Dussault seconded the motion to award the bid for one (1) new standard duty 4x4 1/2 ton pickup to Bitterroot Toyota in the amount of \$9,498.00 as the lowest and best bidder. The \$9,498.00 is within the budgeted amount of \$15,000.00. The motion carried on a vote of 3-0.

LINCOLN HEIGHTS - SUMMARY PLAT REVISED CONDITIONS

Barbara Martens, Office of Community Development, explained that on May 6, 1992, the Board of County Commissioners approved the Summary Plat for Lincoln Heights along with the recommendations of the OCD staff. At this time, it was the understanding that the driveway on Lot 1 would access onto to Winding Trails Drive. The developer, Ken Allen, and representative Nick Kaufman of Sorenson and Company, would like to access off of the private access easement that goes through Lot 5. If the access does occur at this location three of the Conditions that were adopted should be amended to include Lot 1 in addition to Lot 5. The amended Conditions read as follows:

2. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for Lot 1 or Lot 5 shall constitute the assent of the owners to an equitable cost share for upgrading the private access easement through Lot 5 and may be used in lieu of their signature on an SID, RSID, or road improvement agreement, provided the agreement is based on a cost share whose basis for assessment is proportionate to the number of lots benefitting from the improvement."

5. As volunteered by the developer, the private access easement of Lot 5 shall have a deed restriction to limit access to only Lot 1 and Lot 5 of Lincoln Heights, and to the currently existing lots to the north and south of this property, as contained in the existing easement.

13. The developer shall place the following statement on the face of the plat and in each instrument of conveyance:

"The purchaser and/or owner of Lot 1 and Lot 5 understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner or property-owners' association and that the County of Missoula is in no way obligated until the road is brought up to standards and accepted by the County of Missoula."

ADD:

14. The private road easement and driveway serving Lot 1 shall be paved. At such time as four homes are served by the private access easement crossing Lot 5, the pavement shall be widened to a minimum of twenty feet (20').

Nick Kaufman was present and agreed to the amendments to the conditions as presented.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the revised conditions for Lincoln Heights Summary Plat as follows:

2. The developer shall include the following statement on the face of the plat and in each instrument of conveyance which states:

"Acceptance of a deed for Lot 1 or Lot 5 shall constitute the assent of the owners to an equitable cost share for upgrading the private access easement through Lot 5 and may be used in lieu of their signature on an SID, RSID, or road improvement agreement, provided the agreement is based on a cost share whose basis for assessment is proportionate to the number of lots benefitting from the improvement."

5. As volunteered by the developer, the private access easement of Lot 5 shall have a deed restriction to limit access to only Lot 1 and Lot 5 of Lincoln Heights, and to the currently existing lots to the north and south of this property, as contained in the existing easement.

13. The developer shall place the following statement on the face of the plat and in each instrument of conveyance:

"The purchaser and/or owner of Lot 1 and Lot 5 understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner or property-owners' association and that the County of Missoula is in no way obligated until the road is brought up to standards and accepted by the County of Missoula."

14. The private road easement and driveway serving Lot 1 shall be paved. At such time as four homes are served by the private access easement crossing Lot 5, the pavement shall be widened to a minimum of twenty feet (20').

The motion carried on a vote of 3-0.

HEARING: (CERTIFICATE OF SURVEY REVIEW) USE OF OCCASIONAL SALE (CORTI)
TRACT A-2 OF COS 2996

Marnie McClain, Deputy county Attorney, explained that Danny W. Corti has requested an exemption for an occasional sale for Tract A-2 of COS 2996, a 2.03 acre tract located off Rattlesnake Drive near the East Rattlesnake Addition. The applicant proposes to create two tracts of approximately equal size.

This parcel was created in 1984 by COS 2996 using an occasional sale exemption by Michael and Nina Harbine. In 1985, COS 3172 was filed using the construction mortgage exemption by Michael and Nina Harbine. Two boundary relocations have also been done on the property, in April, 1989 and in 1992.

According to the records kept by the Missoula County Surveyor's Office, the applicant has previously used a boundary relocation exemption to the Subdivision and Platting Act.

The hearing was opened to public testimony.

Andy Fisher of Eli and Associates, representing Danny Corti, was present to answer questions from the Board.

Dan Corti explained that he bought the property as a HUD repossession. He wishes to keep this parcel and transfer the remaining parcel to his newborn son.

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

A general discussion ensued relative to the history of the whole parcel and what has occurred there relative to land splits. Mr. Corti intends to build a home on the remaining parcel.

Dan Corti stated that he did not request a family transfer because his son does not have a Social Security number as he is only two weeks old; therefore, he couldn't transfer land to his son.

Janet Stevens suggested that a family transfer approval be contingent upon Mr. Corti's son getting a Social Security number and transferring the deed.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the Family Transfer for Tract A-2 of COS 2996, a 2.03 acre tract located off Rattlesnake Drive near the East Rattlesnake Addition, subject to the submittal of an affidavit for a family transfer and based upon the finding that the request does not appear to evade the Subdivision and Platting Act. The motion carried on a vote of 3-0.

HEARING: (CERTIFICATE OF SURVEY REVIEW) FAMILY TRANSFER (TINGLEY) Tract 3-A of COS 3833

Marnie McClain, Deputy County Attorney, explained that Elizabeth Tingley has requested an exemption for a family transfer exemption for Tract 3-A of COS 3833. This is a twelve acre tract located up Butler Creek near the area of the proposed interchange. The applicant proposes to create two tracts of approximately equal size. The new parcel would be created as a gift or transfer to the applicant's 25 year old son.

This parcel was originally created in 1978 by COS 1440 by Gene Anderson. COS 1440 created 10 parcels over 20 acres with a 12.77 remainder. In 1990, Elizabeth Tingley divided Tract 3 of COS 1440, using two family transfer exemptions. This divided the tract into a 12 acre parcel and two 8 acre parcels.

According to the records kept by the Missoula county Surveyor's Office, the applicant has previously used the family transfer exemptions described above.

The hearing was opened to public comment.

Andy Fisher, Eli and Associates, stated the Tingleys have owned the property since the late 1970's. He explained the parcel was a split from the remainder tract of the family transfer that the Board approved approximately two years ago. They would like to transfer this parcel to their last son who is returning from employment in Hong Kong. The Tingleys were not present to answer questions.

Ann Mary Dussault asked what has become of the past family transfers?

Andy Fisher stated that he didn't know. However, the family did build two homes on the properties.

Ann Mary Dussault recommended that the hearing be postponed until Mrs. Tingley could be present to answer questions from the Board.

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

The hearing was postponed until June 24th.

HEARING: (CERTIFICATE OF SURVEY REVIEW) AGRICULTURAL EXEMPTION (FOX)
described at Book 160 Page 2146

Marnie McClain, Deputy County Attorney, explained that Andy Fisher of Eli and Associates, has submitted an affidavit for an agricultural exemption for Michael E. Fox for a ten acre tract of land he owns in the Carlton Creek Road area, very near the Ravalli County line. He proposes to create an agricultural tract, approximately five acres in size. The remainder parcel would be retained and the agricultural parcel would be sold to a neighbor.

The applicant does not identify the divisions of the land existing as of July 1, 1974. A warranty deed is filed a Book 160 Page 2146, dated February, 1981. It does not appear that a survey was done at that time.

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

The hearing was opened to public comment.

Andy Fisher, Eli and Associates, explained that his clients father resides on the remaining five acre piece; the property itself is in the name of his son, Michael Fox. A neighbor wishes to buy the five acre parcel with the agricultural covenant to maintain the open space which is floodplain. There being no further testimony, the hearing was closed to public comment.

Ann Mary Dussault moved and Janet Stevens seconded the motion to approve the request for an agricultural exemption for Michael E. Fox for five acres of a ten acre tract of land in the Carlton Creek Road area, as there is no apparent intention to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

HEARING: (CERTIFICATE OF SURVEY REVIEW) USE OF OCCASIONAL SALE
(SCHMAUSS) COS 3171

Marnie McClain, Deputy County Attorney, explained that Andy Fisher, Eli and Associates, has submitted an affidavit for an occasional sale exemption for Tina Schmauss. The applicant proposes to create a .86 acre tract located in the Milltown area. According to the affidavit, the parcel will be used for an existing single family residence.

According to the affidavit, this parcel was previously divided by COS 3171 in March, 1985 by Ralph and June Harris.

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.

Andy Fisher explained that there is an existing residence on the property. The Schmauss' have rented the house on the property for approximately 15 years. At this time, the renters are in a position to buy the property which consists of one acre, from the Harris'. The septic system will be upgraded substantially as a part of the approval.

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

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the request for an occasional sale exemption for Tina Schmauss to create a .86 acre tract, based on the fact that there is no apparent intent to evade the Montana Subdivision and Platting Act and that there is an existing residence. The motion carried on a vote of 3-0.

HEARING: RIVER COURT ADDITION, LOT 5 (SUMMARY PLAT)

Barbara Martens, Office of Community Development, explained that River Court Addition, Lot 5 is a proposed four lot subdivision on 2.22 acres. The subdivision is located south of River Road, at the end of River Court. A duplex is proposed to be built on each of Lots 5A - 5D. The lots will be served by individual wells and will connect to City sewer service. Cash-in-lieu of parkland was previously satisfied with the platting of River Court Addition.

The area is located in Zoning District No. 16 which allows single family and two family dwellings as permitted uses. This zoning district does not have a minimum lot size requirement.

To date, the staff has received one letter in opposition to the proposal. The letter expressed concerns over allowing multi-family units in an area that has been rural as well as concerns over increased traffic, noise and congestion.

The Community Development staff recommends that the 2nd Summary Plat of River Court, Lot 5 Addition be approved subject to the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. The developer shall provide easements for utilities in the appropriate areas.

Barb Martens stated the existing River Court has been extended to serve this development. The street is paved and has curbs and gutters along both sides. A five (5) foot wide concrete sidewalk has been constructed around the cul-de-sac and along the west side of existing River Court. Maintenance will be the responsibility of the Homeowner's Association. The County Surveyor's Office has approved the road and drainage plans.

The hearing was opened to public comment.

Tim Wolfe, Territorial Engineering and Surveying, stated that last year the developers came in before the Board with a five lot subdivision; they considered making the subdivision eight lots. However, a deal to sell off 2.2 acres (or three lots) of the land fell through. The developers are now back with the remaining three lots. The condition requiring sidewalks has already been met.

Bill Mitchell, owner of Mitchell Brothers Honey and resident of the area, voiced concerns that his business, which is a commercial bee operation, would not be understood by the residents within the subdivision, that there may be problems with the bees. He wanted his testimony to stand on record as fair warning to the residents of the subdivision that there may be problems with the bees. He also voiced concerns of increased traffic congestion on River Road.

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

Janet Stevens asked whether it would be sufficient to include in the minutes Mr. Mitchell's notice to the subdivider relative to the bees. In the future, the residents may complain about the bees, so there has to be a way for him to be safe-guarded by way of notice.

Mike Sehestedt, Deputy County Attorney, stated that the minutes of the hearing can reflect that there was notice to the subdivider and purchasers of the lots that there is a commercial bee operation in the area.

Marnie McClain, Deputy County Attorney, stated it could be assumed that any buyer would look around the area and see there is a bee operation in the area.

Ann Mary Dussault stated that the requested use and agricultural use are permitted in this zone. The zoning allows for the bee operation.

Janet Stevens moved and Ann Mary Dussault seconded the motion to approve the River Court Addition, Lot 5, Summary Plat, subject to the findings of fact in the staff report and the following conditions:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. The developer shall provide easements for utilities in the appropriate areas.

The motion carried on a vote of 3-0.

HEARING: PETITION TO VACATE PORTION OF 3RD STREET (EAST CLINTON ADDITION)

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor of the Clerk and Recorder's Office, that a petition to vacate "Third Street, located in Section 27, Township 12 North, Range 17 West, of East Clinton Addition from Woodville Avenue west to the west boundary of the East Clinton Addition, Missoula County, Montana, and further described in Road Book of the Missoula County Surveyor as: Third Street of East Clinton Addition."

The reasons for this request are as follows: "Third Street beyond Woodville Avenue west extends approximately 140 feet to a dead end. This area is necessary to provide a replacement system for a failing septic system at 2025 Woodville Avenue."

The following adjacent landowners were notified of the hearing: Charles J. Heringer, Lane Olsen, Five Valley River Parks Association, Alberta and George Drinville, Charles R. and Frances L. Drinville, Kirk L. and Lisa A. Mumma, Clinton Rural Fire, and Yellowstone Pipeline.

Ann Mary Dussault explained that this request is an unusual circumstance and because the request constituted an emergency, she and Horace Brown, the County Surveyor, have already inspected the area. A letter from the Health Department verified the above-stated circumstances.

The hearing was opened to public comment.

Lisa Mumma, resident of the area that requested the vacation, asked that the Board make the decision on this request today, in order to obtain a permit to begin work on Friday.

Charles Tridan, representing the Five Valleys Land Trust, stated that they own approximately 25-30 acres along the river. The Land Trust is organized as a charitable non-profit corporation. The lands under their ownership are managed for public purposes. Access to these lands are provided by a number of public streets within the East Clinton Addition subdivision; none of which exist physically on the ground. The logical access to the main body of the property is along Third Street. This is due to topographical limitations on the other streets. He said the organization is very empathetic to the Mumma's septic system problems; however, they object to any solution that will diminish the legal and physical access to the lands.

At this time, Mr. Tridan showed by use of a map the situation existing relative to this issue. A prescriptive use road runs through the west portion of Block 15. The problem is if the portion of road requested by Ms. Mumma is vacated, the ability of the Five Valley Land Trust to access their lands is diminished.

A general discussion ensued relative to vacating the road only to the alley. None of the roads that exist on the map really exist physically.

Charles Tridan stated that the attorney representing the organization suggested that a reciprocal access agreement could be signed between the parties involved to provide the needed access. The parties involved include Mr. Drinville, Five Valleys Land Trust and the Mumma's.

A discussion ensued relative to how much land the Mumma's needed to be vacated.

Lisa Mumma stated that the Health Department indicated that they would need at least to the west boundary and would stay ten feet on their side. She said half a block would be acceptable.

Charles Tridan stated that without their present easement, they would not have access.

A discussion followed relative to the road being vacated only to the alley which wouldn't affect the Five Valleys Land Trust properties. Lance Olsen owns the property across the alley and the Drinville's own the property across Third Street. Five Valleys Land Trust does not want to restrict vehicular or foot traffic across their lands for the public; however, they are not exercising that right at this time, they do not want to diminish that access. Access could be gained through other roads. However, there are grade restrictions on some of the roads.

Charlie Drinville, resident, stated that his father lives across the alley from the Mumma's. His father is in favor of closing the road to Montana Street and also to the alley. He said he bought 4.9 acres of the railroad right-of-way from west of First Street down to Fifth Street and including Fifth Street. He said he owns seven blocks in the area. He stated that he has never stopped anyone from accessing the river bottom from his property; he stops them only for hunting purposes and vehicular traffic. He said the details need to be worked out between the land owners in the area. He said without the support from the community the Mumma's will lose what they have worked for. If the road was closed just to the alley, it would not affect his property.

Lisa Mumma proposed the road be closed to the alley, then the other landowners, the Olsens, the Drinville's, and Five Valley Land Trust would be left to settle this matter on their own time.

Amy O'Herren, Missoula County Rural Planner, said that she would hope that the discussion between the landowners would be to leave the public access open to the Five Valleys Land Trust properties. She said that she hoped that the discussions would continue relative to the public access issues.

A discussion followed relative to the access point of Five Valleys Land Trust. Someday an access point to the river could be developed for use by the public. It was pointed out that some of these roads have drop offs at the end of the road; there are other potential accesses, however.

Michael Sehestedt stated either there is a legal access that exists--the right of any citizen to legally walk down to any location on any of the streets all the way to the river without hindrance from anyone; or through the process of locating the railroad and subsequent Commissioner action, which no one is aware of, these were vacated sometime back about 1910 when the railroad came through. Typically, they did not do that. He said that he suspected that Mr. Drinville's deed is the simple, absolute subject to all easements of record or apparent on the premises, which leaves him to pass on the validity of these easements. With the bankruptcy of the railroad, the easements are not particularly valuable. Physical access to the Five Valleys property has occurred along the line of Third Street.

A discussion resulted relative to the access to the Five Valleys lands. It was discussed that there are many accesses to the lands. If the road is vacated down to the alley, it will not hurt or affect the Five Valleys properties.

Michael Sehestedt stated again that either there is legal access or there isn't. If there isn't, what the Board decides doesn't really matter. Assuming there is a legal access, the Board could choose to develop the platted roads and which of the roads is practical to develop into a road. If there are other practical routes, then what the Board does with the road doesn't matter. The question remains: Are there any other physically practical ways for the owners to access their properties?

Horace Brown, County Surveyor, stated he had inspected the roads about ten years ago; they have a drop-off of about ten to twelve feet.

Michael Sehestedt asked if the roads could be constructed with cut and fill to accommodate a standard County road to eliminate the drop off.

Horace Brown stated it would depend on how close the railroad is. The hearing was closed to public comment.

Ann Mary Dussault stated that if there is a problem with an access on Third Street, it will remain to be resolved.

Ann Mary Dussault moved and Janet Stevens seconded the motion to vacate all of Third Street that lies between Woodville and the alley between Blocks 14 and 15 of East Missoula Addition; further described as "Third Street, located in Section 27, Township 12 North, Range 17 West, of East Clinton Addition from Woodville Avenue west to the west boundary of the East Clinton Addition, Missoula County, Montana, and further described in Road Book of the Missoula County Surveyor as: Third Street of East Clinton Addition." The motion carried on a vote of 3-0.

HEARING: PETITION TO VACATE PORTION OF PINERIDGE DRIVE

Marnie McClain, Deputy County Attorney, explained from information received from Vickie Zeier, Recording Supervisor, Clerk and Recorder's Office, that a petition to vacate "A dirt, unimproved road which has been called Pineridge Drive in some instances, and Takima Drive in other instances which forms part of a connection between Takima Drive, and Crestline Drive. The County's portion of this road lies entirely in Section 4, Township 12 North, Range 19 West, within Missoula County, Montana. Both ends of the road connect to a road of similar description within the City of Missoula. A diagram of this road and the immediately surrounding area is included as Exhibit 1, in Packet in Support of Abandonment."

The reasons for this request are as follows: "The abandonment of this County road is necessary and advantageous to abate problems created by the current condition of this unnecessary and little used roadway. The petitioners do not admit that this road ever was, nor is now, a legal road even though they are filing this petition."

The following adjacent landowners were notified of the hearing: County Park Board, City Park Board and Missoula Rural Fire Department.

The hearing was opened to proponents of the issue.

Allen Blakley, attorney representing the petitioners, summarized the concerns of the petitioners which include; Pineridge Drive is little used and unnecessary, is used for illegitimate uses such as dumping of garbage, etc., parties, off-road vehicles, prowlers, is never maintained, is a fire danger, as well as various safety concerns. He said no benefit is derived from this road.

He stated he spoke with Orin Olsgaard, DES, who commented that the community-wide disaster plan does not list this road as an access for any purpose. There are two accesses to the area on opposite sides of the hill.

He addressed the effects of closing the road by stating the closure would not affect traffic; there are only 80 average trips daily. He spoke about the dangerous driving conditions of the road.

He stated that some of the residents could not attend the meeting. Their letters will become part of the public record. These include letters from Sam and Christine Miller, Bob and Tana Mullendoor, and Russ Piazza.

Nancy Munro, resident of Takima Drive, gave the history of the road and spoke about safety concerns and problems caused by the road.

Wayne Hiett, resident of Takima Drive for 25 years, spoke about the drainage and dust problems with the road as well as the other problems already addressed.

Leah Wilbur, student at Sussex School, explained that this year she was a part of Eco-Thon, a project to clean up various areas. This year the project was Pineridge Drive. She said there were seven students and three adults participating in the cleanup, which took 25 hours of labor and 3 truckloads of garbage.

Tom Whishton, student at Sussex School and participant in the Eco-Thon cleanup of Pineridge Drive, stated that it looked like the road had been used as a dump. He said that it is his fifth year on the Eco-Thon and the road was definitely the worst place he had ever cleaned up.

The hearing was opened to opponents of the issue.

Sharon Hinshaw, resident of the area, requested that the road be left open because she uses it in the wintertime as a safer alternate route to her home due to the lesser grade and gravel. She stated that her family depended on the road for an access for fire protection. She said she felt the road is necessary. Also, the closure of the road would not help the drainage problems; the roadway will still be there after it is closed.

Pete Lawrenson, Assistant Police Chief of the City of Missoula, stated that the disaster emergency plan for Missoula does not necessarily show this road as an access; however, in the opinion of the Police Department, this road is a valid evacuation disaster emergency route as well as a tactical response route for law enforcement. He urged the Board to keep the road open.

Barbara Evans asked if the road was closed to public use, but kept open for emergency routes only, would this take care of the concerns of the Police Department?

Pete Lawrenson stated if the Police Department has to delay to get the road open, this choice would be second best; maintaining the road open would be best for the Police Department. He related an experience he had with an emergency in this area. He felt that because Pineridge Drive was available, a life was saved because of the few moments gained to reach the emergency. He said in the event of another emergency, the road, if left open, would be available for access to this area.

Charles Gibson, Missoula City Fire Chief, stated that the emergency departments like to have a second means of egress. He said the Fire Department strongly encourages developers to provide a second means of egress. He stated that if there were a fire on a road like this, and the trucks block the road, there is no way out. A second egress is needed. The road also provides access to the park.

A discussion ensued relative to Pineridge Drive being the second egress out of the Takima area. The 24 calls in as many years answered by the Fire Department have been either fire or medical.

Charles Gibson said that statistically, the road closure is not a big issue, but it only takes one emergency to make it worth keeping open.

Ann Mary Dussault stated the reality is there is only one egress on most roads in the area.

Ray Erickson, representing the Montana Department of State Lands, stated he supports Charles Gibson's statement relative to the fire issues in the area. Pineridge Drive was used as a tactical road in the Pattee Canyon fire. He stated that this road is also important for evacuation purposes.

Bill Reed, Chief Fire Marshall of Missoula Rural Fire District, stated that he supported the comments made by both Charles Gibson and Ray Erickson relative to the access provided by this road. The road provides access to not only a very dry field in the summer, but also to the top of the gully where there is a very dense stand of trees; in amongst the trees there are many local residents. This route is used by these residents to get out of the area.

John Balyeat, resident of Crestline Drive, explained the various accesses to the area. He stated there are only three ways off of the hill; Whitaker, Highland Parkway and Takima Drive. He stated that eventually all of the roads in this area access these three roads on and off the hill. He stated considering the number of people that are served by the three accesses--Highland Parkway, Whitaker and Takima, Pineridge is used only by 80 people because it is not an improved roadway. He said that over the years, there has been a continual effort to restrict traffic down this road by use of stop signs and restricted speed signs. He said the people below Pineridge do not want traffic going through their neighborhood. There are only a few reasons to close the road; it is narrow, it has drainage problems, it is dusty, and is little used. He said the only reason for these problems is it is unimproved. If the residents would allow the road to be improved, he stated that it would solve all of their problems. He said if it were a better road he would probably use it as a primary access.

Ann Mary Dussault asked if the residents were willing to enter into an RSID to pay for the upgrading and improvement of Pineridge Drive to bring it up to County standards?

There was a general discussion relative to the residents participating in an RSID to upgrade and pave Pineridge Drive. The cost to each resident would be based upon direct benefit.

Richard Petaja, resident of Ben Hogan Drive, spoke about a petition to keep the road open. He stated that when the Mansion Heights Subdivision was approved, the approval was based upon Pineridge Drive as one of the accesses to that property. This subdivision, according to a study, would increase the number of trips per day by 826. This subdivision has not been built out at this time. He wondered what access these people would use if the road is closed. He stated that he is not against development in the area; however, he said it seemed short-sighted to shut off one of the main accesses out of the area for normal or emergency traffic. He said that he had talked with Horace Brown, County Surveyor, and he did not understand why smaller roads that go into the City cannot be maintained by the County if they are County roads. He suggested agreements be made between the City and County for road maintenance purposes.

He wondered what the RSID would include; would the road be built to County standards or to City standards?

Horace Brown stated that the road has never been accepted for County maintenance. In order for it to be maintained, it would have to be brought to County standards by the people in the area. The cost of the road would be to upgrade the road to County standards. The Board would decide if they want to require curbs. He suggested that because of the steepness of the hill the Board may want to require the curbing in order to run the water to an area to collect it.

Richard Petaja stated that Pineridge Drive is the road with the least amount of slope in the area. He said this is the primary reason for his wanting to keep the road open. If Pineridge was brought up to County standards it would be an even better road.

Chris Odline, resident of Crestline, and employee of the City Police Department, stated that 9-1-1 has dispatched calls to him on Pineridge Drive. He said that if the road is closed, people can still walk back in this area; he felt this would increase the problems of illegitimate uses because the road wouldn't be patrolled.

Dr. David Farnum, resident of Crestline Drive since 1962, stated that he agreed with all of the statements in opposition to the closure.

Jane Bender, resident, asked the Commissioners to drive up to the area to view the dirt road. She said it isn't in as poor shape as has been expressed; many people use it.

S. T. Melby, resident of Continental Way, expressed that this road has the most gentle grade to the top of the hill. He commented on the grade and steepness of the other roads of the area. He urged the Commissioners to leave the road open.

Dr. Charlie Brooke, resident, commented on the garbage problem. He stated that any road in the County similar to Pineridge, has garbage problems. He said that he felt the garbage problem is not a very good reason for closing the road. This road is a dedicated road and has been in this area for quite some time.

Sherry Gay who lives one block from the intersection of Crestline and Pineridge, stated that she does not hear the noise of constant partying. She suggested that curbs be installed for the safety of the children in the area.

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

Michael Sehestedt, Deputy County Attorney, explained that the Statutes govern the procedure for County road vacations. They provide for road closure and vacations initiated by a petition by at least ten property owners requesting a road be closed. By statute, due notice must be given by publication at least once, at least one week prior to the hearing. The publication occurred on May 31st which is 10 days prior to the hearing. The item has been on the Commissioners Agenda for the Public Meeting of this week. All of the media receives a copy of this agenda. Notice did in fact, reach the people; it was done properly and lawfully.

Barbara Evans said that by law, one Commissioner and the County Surveyor must inspect the road to be vacated. The decision on the closing will be postponed until June 24, 1992. The written record will be left open until June 24th. There will be no further testimony at the public meeting on June 24th and a decision may be made at this time.

There being no further business to come before the Board, the meeting was recessed at 4:00 p.m.

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JUNE 11, 1992

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

Indemnity Bond

Chairman Evans examined, approved and ordered filed an Indemnity Bond naming Lawyers Cooperative Publishing Co. as principal for warrant #217457, dated May 17, 1991, on the District Court Fund in the amount of \$351.90, 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 Mormon Creek Meadows No. 2, a subdivision of Missoula County, located in the NE 1/4 of Section 3, T. 11 N., R. 20 W., PMM, a total area of 2.579 acres, with the owner of record being Kenneth W. Allen; the park requirement was satisfied with cash in lieu of park in the amount of \$2,350.00 received by the County Treasurer.

Notice of Hearing

Chairman Evans signed the Notice of Hearing to continue the 0.5% Local Option Motor Vehicle Fee in FY '93 in accordance with MCA 61-3-537 and as amended by House Bill 312, setting the hearing date for June 24, 1992, at 1:30 p.m.

Resolution No. 92-046

The Board of County Commissioners signed Resolution No. 92-046, a resolution supporting the efforts of Missoula Electric Cooperative and the Montana Power Company to promote energy efficiency in commercial facilities, and endorses utility marketing efforts that promote participation in these programs; and also resolving that Missoula County allow the use of its name for endorsement of Missoula Electric's marketing of the Energy Smart Design Program and Montana Power Company's Electric Conservation Programs.

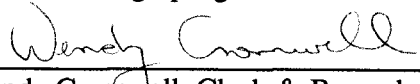
Other items included:

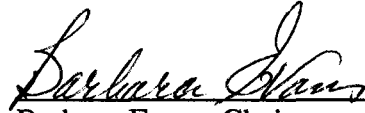
The Commissioners appointed Mike Jakupcak as a "regular" member of the Missoula Aging Services Governing Board to fill the unexpired term of Dorothy Curran through December 31, 1993.

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

JUNE 12, 1992

The Board of County Commissioners met in regular session in the afternoon; a quorum of the Board was present. Commissioner Stevens was in Libby attending a meeting of the Mental Health Board, and Commissioner Evans was out of the office until noon. At noon, Commissioner Evans gave the welcome at a luncheon held at the Mansfield Center honoring a group of Japanese women who are in Missoula for an exchange program.


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

JUNE 15, 16 & 17, 1992

The Board of County Commissioners did not meet in regular session; Commissioners Dussault and Stevens were in Miles City attending the MACo Annual Conference from June 15th through the 17th, and Commissioner Evans was on vacation on those dates.

WEEKLY PUBLIC MEETING CANCELED

The Weekly Public Meeting for June 17th was canceled as the Commissioners were out of town.

JUNE 18, 1992

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

Audit List

Commissioners Evans and Stevens signed the Audit List dated June 16, 1992, pages 6-38, with a grand total of \$221,150.86. The Audit List was returned to the Accounting Department.

Indemnity Bonds

Chairman Evans examined, approved and ordered filed the following indemnity bonds:

- 1) naming Janie Cook as principal for warrant #3155, dated 6-12-92, on the School District #1 Payroll Fund in the amount of \$126.82 now unable to be found; and
- 2) naming Suk-Ying Choi as principal for warrant #1026, dated 5-1-92, on the School District #1 Payroll Fund in the amount of \$90.39 now unable to be found.

Resolution

Chairman Evans signed a Resolution submitted by the State of Montana, Property and Supply Bureau, whereby Missoula County authorizes the County employees listed on the Resolution to acquire federal surplus property from the State of Montana, Property and Supply Bureau on behalf of the County, as per the terms and conditions listed on the form. The Resolution was returned to Orin Olsgaard, DES Coordinator, for further handling.

Resolution No. 92-047

The Board of County Commissioners signed Resolution No. 92-047, a Resolution vacating a portion of Third Street in East Clinton Addition from Woodville Avenue to the Alley of Blocks 14 and 15 located in the SE 1/4 of Section 27, T. 12 N., R. 17 W., PMM, Missoula County.

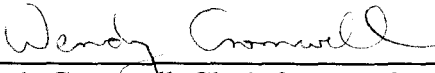
Request to Vacate a portion of Hillview Heights #6

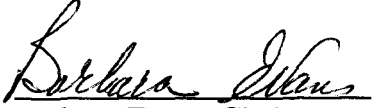
The Board of County Commissioners signed a letter to Bruce Bender, City Engineer, formally requesting the City of Missoula to vacate a portion of Hillview Heights No. 6, Lots 1-21, Block 2; Settlement Court in its entirety and the related common area, Hillview Heights No. 6, as said properties are to be replatted as shown on the "Future Development Plan - Lolo View Heights No. 5" as included in the submittal for the approved Summary Plat of Lolo View Heights No. 4. The letter was returned to Merilynn Foss, realtor at Coldwell Banker for further signatures and handling.

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JUNE 19, 1992

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


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

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JUNE 22, 1992

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

Monthly Report

Chairman Evans examined, approved and ordered filed the Monthly Report of Sheriff Doug Chase showing the items of fees and other collections on account of civil business in Missoula County for month ending May 29, 1992.

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 (5/10/92 - 5/23/92) with a total Missoula County payroll of \$409,309.66. The transmittal sheet was returned to the Auditor's Office.

Agreement

The Board of County Commissioners signed an agreement between the Missoula City-County Health Department and the Frenchtown School District, whereby the Health Department will provide a Public Health Nurse at the Frenchtown School to perform the services and terms set forth in the Agreement, for the period from August 24, 1992 through June 4, 1993, for a total payment to the Department by the School District not to exceed \$25,705.00. The Agreement was returned to the Health Department for further signatures and handling.

Resolution No. 92-048

The Board of County Commissioners signed Resolution No. 92-048, a Budget Amendment for the Sheriff's Department for FY'92, including the following expenditures and revenue, and adopting it as part of the FY'92 budget:

<u>Description of Expenditure</u>	<u>Budget</u>
Jail Salary (1000-300-420230-111)	\$11,460.
Patrol Salary (1000-300-420180-111)	16,686.
<u>Description of Revenue</u>	<u>Revenue</u>
Prisoner Board (1000-300-342030)	\$28,146.

Resolution No. 92-049

The Board of County Commissioners signed Resolution No. 92-049, a Budget Amendment for the Health Department for FY'92, including the following expenditures and revenue, and adopting it as part of the FY'92 budget:

<u>Description of Expenditures</u>	<u>From</u>	<u>Budget</u>	<u>To</u>
Permanent Salaries 2270-613-445603-111		\$19,591.	\$20,559.
Fringe Benefits 2270-613-445603-141		<u>4,647.</u>	<u>4,879.</u>
		\$24,238.	\$25,438.
<u>Description of Revenue</u>		<u>Revenue</u>	
Daycare - Health 2270-613-344085	\$ 6,140.	\$ 7,340.	

Additional funds received from the Department of Family Services and MCH Bureau.

Missoula County Permit

The Board of County Commissioners signed a Missoula County Permit agreeing to permit Pat Barrackman of 10850 Allen Lane, Lolo, MT to use a portion of Missoula County property adjacent to Highway 12 in Sec. 5, T. 11 N., R. 20 W., as shown on the exhibit attached to the permit, for the purpose of providing pasture, as per the terms set forth, for a period not to exceed ten years, renewable at the option of the County.

Resolution No. 92-050

The Board of County Commissioners signed Resolution No. 92-050, a resolution granting an agricultural exemption to Michael E. Fox for a tract of land described at Book 160, page 2146, as he proposes to sell the divided property to a neighbor for use as a pasture and open space and it is the purpose of agricultural exemptions to facilitate and promote agricultural exemptions to facilitate and promote agricultural uses of property.

Resolution No. 92-051

The Board of County Commissioners signed Resolution No. 92-051, resolving that the plat of Bay Meadows Addition, a platted subdivision of Missoula County, located in the NE 1/4 of Section 21 and the NW 1/4 of Section 22, T. 14 N., R. 20 W., PMM, be vacated in whole.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and Sonju's Office Management in Seeley Lake, an independent contractor, for the purpose of secretarial, clerical and administrative duties as requested by the Seeley Lake Community Council, as per the terms set forth, beginning July 1, 1992, through June 30, 1993, at the rate of \$9.00 per hour.

Other items included:

- 1) the Commissioners granted permission from Missoula County (as a property owner in the subdivision) for Christy Trowbridge to move her house onto Lot 8, Supplemental Plat of Blocks 20 and 21, School Acre Tracts, and complete as per her submitted plans--the approval letter was returned to Merilynn Foss and Coldwell Banker Real Estate for further handling;
- 2) the Commissioners signed a letter to Bob Rolfson of Title Services to verify information provided to him by Wendy Cromwell, Missoula County Clerk & Recorder/Treasurer concerning property identified as SUID #5850978 (BCC-92-338); and
- 3) the Commissioners approved a request from Rachel Vielleux, County Superintendent of Schools, for an account with Centralized Services for the Missoula Area Education Cooperative for printing for FY'93 and that the Co-op's printing be done at the same rate as that allowed the Superintendent of Schools' Office.

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

Site Inspection

In the afternoon, Commissioner Evans accompanied County Surveyor Horace Brown on a site inspection for the petition to vacate a portion of Pineridge Drive.

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JUNE 23, 1992

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:

Supplement to Maintenance Agreement

Chairman Evans signed a Supplement to the Maintenance Agreement with Unisys Corporation to include a MA8493 Disk:560MB SCSI Cabinet at a rate of \$43.00 per month. The Agreement was returned to Jim Dolezal in Data Processing for further handling.

Other items included:

The Commissioners discussed the Lakeshore Regulations (proposed in 1984); a copy will be sent to the Seeley Lake Community Council for their review and comment and from there to the Planning Board.

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

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JUNE 24, 1992

The Board of County Commissioners met in regular session; a quorum of the Board was present. Commissioner Stevens was out of the office all day because of illness in the family. In the morning, Commissioners Dussault and Evans attended a Legislative Briefing Breakfast held at the Village Red Lion.

Audit List

Commissioners Evans and Dussault signed the Audit List dated June 23, 1992, pages 6-23, with a grand total of \$226,361.10. 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 Agreement

Chairman Evans signed a Lease Agreement between Missoula County and Frenchtown Elementary School for the lease of a .26 acre part of Parcel A-1 in the SW 1/4 of Section 35, T. 15 N., R. 21 W., (comprising 1.34 acres) located adjacently to US Hwy #10 at the Frenchtown "bypass" to be used for the School's well relocation, as per the terms set forth, for a term of ten years, with the rent for the

property set at \$400 per year. The Lease was forwarded to Sorenson & Co. to obtain the signatures of the School officials.

Professional Services Contract

The Board of County Commissioners signed a Professional Services Contract between Missoula County and the Seeley-Ovando Swan Health Center, an independent contractor, for the purpose of providing Public Health Nursing services, as per the terms set forth, for the period from July 1, 1992, through July 30, 1993, for a total amount of \$1,000.00. The Contract was returned to the Health Department for further signatures and handling.

Resolution No. 92-055

The Board of County Commissioners signed Resolution No. 92-055, a Resolution of Intention to Create RSID No. 914, for dust control treatment to one and one-half miles of Terrace View Dr., (Ponda Rosa Acres), Missoula County, as per the terms set forth. The Resolution was returned to Jesse Sattley in General Services for further handling.

Easement

The Board of County Commissioners signed an Easement between Missoula County and Gustafson Water Users Association over and across a tract of land located in the SE 1/4 of Section 1, T. 15 N., R. 23 W., PMM, Missoula County, for the purpose of constructing and maintaining buried water line and construction and maintenance of a pump house with fencing for a ten-year period, subject to the conditions set forth. The Easement was returned to General Services for further handling.

Other items included:

- 1) the Commissioners reviewed and approved the review of the Larchmont Golf Course for the period from July 1, 1991 to March 31, 1992, as submitted by the Missoula County Auditor; the Review was forwarded to the Clerk & Recorder's Office for filing;
- 2) the Commissioners reappointed Roger Bergmeier to a three-year term on the Museum Board of Trustees through June 30, 1995;
- 3) Judy Hugelen and Roy Gilbert were reappointed to three-year terms on the Lolo Water & Sewer Board (RSID 901) through June 30, 1995; and
- 4) the Commissioners sent a letter to Bob Rolfson of Title Services verifying information provided to him by Wendy Cromwell, Clerk & Recorder/Treasurer concerning SUID No. 5850978.

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 Chairman Barbara Evans. Also present was Commissioner Ann Mary Dussault.

HEARING: RESOLUTION TO CONTINUE 0.5% LOCAL OPTION MOTOR VEHICLE FEE IN FY'93

Chairman Barbara Evans read the following proposed resolution:

RESOLUTION NO. 92-052 TO CONTINUE THE 0.5% LOCAL OPTION MOTOR VEHICLE FEE IN FY'93

WHEREAS, in accordance with MCA 61-3-537 and as amended by House Bill 312, 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 24, 1992, duly noticed in accordance with MCA 7-1-2121, on the question of continuing the assessment of this additional 0.5% fee in FY'93, commencing July 1, 1992.

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, 1992.

The hearing was opened to public comment; there being none, the hearing was closed to testimony.

A letter was received from the City of Missoula expressing their support for Missoula County to retain the 1/2% local option motor vehicle tax for this upcoming fiscal year.

Ann Mary Dussault moved and Barbara Evans seconded the motion to continue to assess the original 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, 1992. The motion carried on a vote of 2-0.

RESOLUTION NO. 92-052

The Board of County Commissioners signed Resolution No. 92-052, a resolution to continue the 0.5% local option motor vehicle fee in FY'93.

HEARING: PETITION FOR ANNEXATION TO MISSOULA RURAL FIRE DISTRICT (COUNTRY CREST NO. 1)

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor in the Clerk and Recorder's Office, that a petition has been 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 requirement of 7-33-2125 M.C.A. for annexation of adjacent territory.

The area to be annexed is described as follows: Country Crest, a recorded subdivision of Missoula County, Montana; located in the SW 1/4 SW 1/4 of Section 11 and the NW 1/4 NW 1/4 of Section 14, T.13N., R.20W., P.M.,M.

The hearing was opened to public comment.

Bill Reed, Fire and Life Safety Division Manager, stated that the Country Crest subdivision is located off of Mullan Road across from the cemetery.

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

Ann Mary Dussault moved and Barbara Evans seconded the motion to approved the petition for annexation by Country Crest #1 to Missoula Rural Fire District. The motion carried on a vote of 2-0.

RESOLUTION NO. 92-053

The Board of County Commissioners signed Resolution No. 92-053, a resolution annexing Country Crest No. 1 to the Missoula Rural Fire District.

HEARING: PETITION FOR ANNEXATION TO MISSOULA RURAL FIRE DISTRICT (COUNTRY CREST NO. 2)

Barbara Evans explained from information received from Vickie Zeier, Recording Supervisor in the Clerk and Recorder's Office, that a petition has been 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 requirement of 7-33-2125 M.C.A. for annexation of adjacent territory.

The area to be annexed is described as follows: Country Crest No. 2, a recorded subdivision of Missoula County, Montana; located in the SW 1/4 SW 1/4 of Section 11, T.13N., R.20W., P.M.,M.

The hearing was opened to public comment; there being none the hearing was closed.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the request to annex Country Crest #2 to the Missoula Rural Fire District. The motion carried on a vote of 2-0.

RESOLUTION NO. 92-054

The Board of County Commissioners signed Resolution No. 92-054, a resolution annexing Country Crest No. 2 to the Missoula Rural Fire District.

HEARING: MORMON CREEK MEADOWS NO. 3 (2ND SUMMARY PLAT)

Barbara Martens, Office of Community Development, explained that Mormon Creek Meadows No. 3 is a five lot rural subdivision located on the south side of Mormon Creek Road in Lolo. The total area is 2.578 acres. The property is part of the old Tucker Ranch.

Access to this subdivision is from Mormon Creek Road, which is a paved, County maintained road. Sapphire Lane intersects with Mormon Creek Road and runs south 960 feet to Coral Lane, which provides frontage to this development. Both Sapphire and Coral Lanes are private gravel roads.

Adjacent land uses: To the north are single family dwellings; to the west is vacant land and single family dwellings; to the south agricultural land and single family dwellings; and to the east is a mixture of single family dwellings, a church, mini-warehouses and vacant land.

Mormon Creek Meadows No. 2, a five lot subdivision located directly north of this proposal, was also developed by Ken Allen. The Board of County Commissioners approved the summary plat of Mormon Creek Meadows No. 2 on March 11, 1992. Because this is the second summary plat on the parent parcel, a public hearing is required.

The Office of Community Development staff recommended approval of the Summary Plat of Mormon Creek Meadows No. 3, subject to the following conditions, variance and findings of fact:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. The developer shall initiate an RSID for the upgrading of Sapphire Lane. If the RSID fails the developer shall include a statement on the subdivision plat and in each instrument of conveyance which states:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owner to any future RSID for the upgrading of Sapphire Lane and Mormon Creek Road and shall be used in lieu of their signatures on an RSID petition."
3. Cash-in-lieu of parkland shall be accepted by the County and so noted on the face of the plat.
4. The developer shall dedicate the road easements for both Coral Lane and Sapphire Lane within this subdivision to Missoula County. The developer shall also place the following statement on the face of the plat and in each instrument of conveyance:

"The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance and snow removal for Coral Lane and Sapphire Lane shall be the obligation of the owner or property-owners' 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."
5. The developer shall include a statement on the subdivision plat and in each instrument of conveyance, which states:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owner to any future RSID for the upgrading of Coral Lane and shall be used in lieu of their signatures on an RSID petition."
6. At such time as six homes are built within the subdivisions, Mormon Creek Meadows No. 2 and Mormon Creek Meadows No. 3, the developer shall initiate an RSID for the upgrading of Coral and Ruby Lane.
7. 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.
8. The developer shall file Property-owner's Articles of Incorporation and By-laws, with proof of filing with the Secretary of State.

9. Grading, drainage and road plans shall be approved by the County Surveyor's Office.
10. The developer shall enter into an agreement with the Missoula Rural Fire District to address water supply. A water supply system shall be installed with the platting of Mormon Creek Meadows No. 3.

Barbara Martens said that the developer is requesting a variance from the road paving requirement for Coral Lane. Coral Lane will provide access to ten homes if this subdivision is approved. The staff recommends that the variance be granted with the following conditions:

1. The lots within this subdivision waive their right to protest a future RSID for the upgrading of Coral Lane, Sapphire Lane and Mormon Creek Road.
2. At such time as six homes are built within Mormon Creek Meadows No. 2 and Mormon Creek Meadows No. 3, that the developer shall initiate an RSID to upgrade both Coral and Ruby Lanes. (See conditions 4, 5 and 6.) This subdivision is located outside of the Air-stagnation Non-attainment Zone.

Access to this subdivision is from Mormon Creek Road, a paved County road. Sapphire Road intersects Mormon Creek Road and runs south 960 feet to Coral Lane which provides frontage to this subdivision. Both Coral and Sapphire Lanes are private graveled roadways. Sapphire Lane is a 24 foot wide roadway, in a 60 foot wide private easement. Coral Lane is a 22 foot wide roadway in a 54 foot wide private easement. The developer has requested a variance to the paving requirement for Coral Lane (see Variance Section of staff report). Horace Brown, County Surveyor, has stated that he has no comment.

She said the developer has agreed to dedicate the private road easements within this subdivision to the County. Road maintenance will be the responsibility of the property-owners until such time as the road is brought up to County road standards and accepted by the County for maintenance. By dedicating the easements to the County, this provides an opportunity for a future RSID to be initiated and to facilitate the eventual upgrading of both Coral and Sapphire Lanes. The developer has also agreed to dedicate the private road easements in the previously platted Mormon Creek Meadows No. 2 to the County.

The Missoula County Subdivision Regulations require that the off-site road (Sapphire Lane) be paved if the subdivision is within 500 feet of a paved, publicly maintained roadway (Mormon Creek Road). As stated by the developer, this subdivision is approximately 960 feet from Mormon Creek Road. The developer will be required to waive the right to protest a future RSID to upgrade Sapphire Lane.

OCD staff met with the developer, his representative, Nick Kaufman of Sorenson & Company and Jim Carlson, Director of Environmental Health, to discuss the paving variance request for Coral Lane. The developer's concern is that the lots fronting onto Coral Lane to the south of this proposal were created by exemptions to the Subdivision and Platting Act. These lots were not required to meet subdivision standards nor waive their rights to a future RSID for paving. They believe it is a hardship to have this development bear the full burden of paving, while other users are not assessed. The outcome of this meeting is to recommend that the variance be granted with conditions. The conditions include those stated in the Variance section of the staff report.

The hearing was opened to public comment.

A general discussion ensued relative to the location of the subdivision and if it was in the Air Stagnation Zone. It was concluded that Mormon Creek Road is the cut-off point for the zone. The developer will waive their right to protest a future RSID to upgrade Sapphire Lane. They will be required to attempt to create an RSID for Sapphire Lane for the upgrading beginning at Mormon Creek Road and ending at Coral Lane. If this attempt fails, then a statement will go on the face of the plat waiving the right to protest an RSID. If the variance is granted for Coral Lane, after six homes are built in this subdivision or Mormon Creek #2, an RSID will be created to pave both Ruby Lane and Coral Lane.

Woody Germany, Sorenson & Company, representing the developer, Ken Allen, said that the developer has agreed to all of the conditions as stated in the staff report. They have worked with the Fire Department and have worked out a means to provide a water supply system. The hydrant is not enough to provide all the fire protection needed, so the developers have agreed to contribute to a fund established by the Fire Department in order to purchase a five inch hose.

A discussion followed relative to the estimated time period of the building out of the subdivision. There are two homes presently under construction and a third is in the planning stages. The developer intends to develop the subdivision as the market allows.

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

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the Second Summary Plat of Mormon Creek Meadows #3 based on the findings of fact and subject to the conditions as follows:

1. Sanitary restrictions shall be lifted by State and local health authorities.
2. The developer shall initiate an RSID for the upgrading of Sapphire Lane. If the RSID fails the developer shall include a statement on the subdivision plat and in each instrument of conveyance which states:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owner to any future RSID for the upgrading of Sapphire Lane and Mormon Creek Road and shall be used in lieu of their signatures on an RSID petition."
3. Cash-in-lieu of parkland shall be accepted by the County and so noted on the face of the plat.
4. The developer shall dedicate the road easements for both Coral Lane and Sapphire Lane within this subdivision to Missoula County. The developer shall also place the following statement on the face of the plat and in each instrument of conveyance:

"The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance and snow removal for Coral Lane and Sapphire Lane shall be the obligation of the owner or property-owners' 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."
5. The developer shall include a statement on the subdivision plat and in each instrument of conveyance, which states:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owner to any future RSID for the upgrading of Coral Lane and shall be used in lieu of their signatures on an RSID petition."
6. At such time as six homes are built within the subdivisions, Mormon Creek Meadows No. 2 and Mormon Creek Meadows No. 3, the developer shall initiate an RSID for the upgrading of Coral and Ruby Lane.
7. 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.
8. The developer shall file Property-owner's Articles of Incorporation and By-laws, with proof of filing with the Secretary of State.
9. Grading, drainage and road plans shall be approved by the County Surveyor's Office.
10. The developer shall enter into an agreement with the Missoula Rural Fire District to address water supply. A water supply system shall be installed with the platting of Mormon Creek Meadows No. 3.

The motion carried on a vote of 2-0.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the variance from the road paving requirement for Coral Lane based on the conditions as follows:

1. The lots within this subdivision waive their right to protest a future RSID for the upgrading of Coral Lane, Sapphire Lane and Mormon Creek Road.
2. At such time as six homes are built within Mormon Creek Meadows No. 2 and Mormon Creek Meadows No. 3, that the developer shall initiate an RSID to upgrade both Coral and Ruby Lanes. (See conditions 4, 5 and 6). This subdivision is located outside of the Air-stagnation Non-attainment Zone.

The motion carried on a vote of 2-0.

DECISION ON: PETITION TO VACATE PORTION OF PINERIDGE DRIVE

Barbara Evans explained that the hearing to vacate a portion of Pineridge Drive was held two weeks ago at the June 10th Public Meeting. She stated that the process was closed following that hearing to public comment; however, it was stated that written testimony would be accepted until June 24, 1992.

Ann Mary Dussault moved and Barbara Evans seconded the motion to enter all of the written testimony received into the record. The motion carried on a vote of 2-0.

Letters received from individuals opposed to the closure of Pineridge Drive include: Bill Reed, Fire & Life Safety Division Manager; Raymond J. Erickson, Unit Manager of the Department of State Lands; Charles W. Schuyler; William T. Riggert; M. Jo Canaris; Chuck Gibson; Captain Don Mormon, Sheriff's Department; Sharon and Robert Hinshaw; Pete Laurenson; Randall W. Gay; William and Kathleen Sullivan; Raymond Murray; Maureen Fleming; John Bayleat; Keith and Enes Wright; Kerri Gay; Sherry Gay; Richard Petaja; Bob Jones; David Farnham; Dr. and Mrs. John Stewart; and Pat Cullen Stewart. Also received was Petition #6827 which was received in May, 1989 by the City, also in opposition to the closure.

Letters received in favor of the closure of Pineridge Drive include:
Robert G. Mullendore, Sam and Kristine Miller, Russell Piazza, and Kris Miller.

Barbara Evans said that she and Horace Brown had inspected the road on June 22, 1992, as required by law.

Horace Brown stated the grade on Pineridge Drive varies from 2.0% to 9.1%. It does not exceed the grade of a standard County road which allows 9% for 100 feet. The length is equally divided between the City and the County. This road serves an area that has been annexed into the City. An RSID to improve the road could be paid for by the City annexed property which receives benefit from this road. The County portion of the road is bounded on one side by Hemaygen Park and by Pineridge Park on the other side. If an RSID is created, money from the funds budgeted as aid to construction could be used to fund a portion of the road if the Commissioners decided to do this. This road is within the dust abatement airshed and about half of the road lies within the City. He recommended that the County request a match of funds from the City. He stated that after the road is upgraded, it will probably be annexed into the City. The road will need to be chip sealed by the County in order to make it safe in the wintertime. He said in his opinion, this road is necessary as an access off the hill for fire, wintertime use and emergency vehicles. He said he makes the recommendation with the assumption that the road will be upgraded to a safe condition.

Barbara Evans stated that her feelings after viewing the site and hearing the testimony, are she cannot in good conscience vote to close the road. The testimony of police and fire personnel was instrumental in making this decision. The road has been there over 30 years. She said the County has been in litigation over this matter for six years; the County has not been willing to close the road in the past which is why they are in litigation. It has been used extensively for emergencies for either fire or medical emergencies and is reason enough not to close it. It is a public road, always has been a public road, and ought to remain a public road. She stated that she agreed with Horace Brown that the road needs to be upgraded. The potholes need to be fixed, it needs to be paved and properly constructed and maintained which includes a non-slip type of surface to provide traction in the winter. She said because of the aforementioned, she is recommending that the road not be closed and staff do what is necessary to provide for an RSID with County and City participation for the paving of this road.

Horace Brown estimated that the improvements to Pineridge would cost approximately \$77,000 for the City and County portion. The improvements include curb, gutter and pavement. He said he has not had official conversations with the City relative to their contributing to the improvement of this road.

Ann Mary Dussault stated if the County were to participate, the budget would have to be amended to ensure the County's share would be available.

Barbara Evans said there may be some dollars in the Park Fund.

Horace Brown said the Park Board has decided to buy signs which the County Surveyor's Office will install to try to keep motorized vehicles out of the park. Because of liability problems, he stated that barricades could not be put up. The only thing that can be done is to put signs up.

Barbara Evans asked the audience if there were any questions relative to the comments made.

Peggy Balian said there is a large parcel of land with nine lots that just went up for sale nearby. She stated that this subdivision will add to the need to keep the road open and accessible.

Michael Sehestedt, Deputy County Attorney, said what he has understood the Board to say is the motion will be to deny the closure. He suggested the matter be "tabled" pending discussions with the City. The

reason for this is because the improving of the road is 50% outside of the County's jurisdiction. He said if the City is unwilling to cooperate in making the necessary improvements, this would keep the potential of closing the road alive .

Ann Mary Dussault moved and Barbara Evans seconded the motion to keep Pineridge Drive open contingent upon the County's ability to negotiate the financial package with the City, the County and the residents for improving the road by participation in an RSID and that the Board of County Commissioners will review the progress of this issue and arrive at an equitable solution at the regularly scheduled Public Meeting on September 16, 1992, at 1:30 p.m. The motion carried on a vote of 2-0.

Michael Sehestedt said what the Board is saying is that keeping the road open will be contingent upon some things happening to the road. If these things don't happen, the Board can look at them again and consider the options without having to go back through the whole petition process. He stated that the motion accomplishes this and keeps all potential resolutions possible.

Ann Mary Dussault said that assuming the County was able to formulate the proposal and create the RSID, would the County be poised to go to bid this fall or in the spring?

Horace Brown stated that it would probably be spring because some design work needs to be done. He said that the creation of the RSID and establishing the boundaries will require the longest amount of time.

Alan Blaksley, attorney representing those in favor of the closure, asked if the RSID would be placed on those benefitting from the improvements?

Ann Mary Dussault stated that the boundaries of the RSID have to benefit those within the RSID. The boundaries would be developed as a process of the negotiation and based on legal counsel.

Horace Brown said an RSID in the City only takes 40% of the people to defeat the project.

Michael Sehestedt said that there is very little county property involved that would be assessed which leaves almost all County park ground. If the County initiates the RSID, 40% of the assessment within the City can kill the RSID. He said who initiates the RSID will make a big difference.

Sherry Gay stated that Pineridge Drive is much safer as a gravel drive than it would be as a paved road. She asked what the decision was based on to chip seal the road?

Pat Cummins Stewart made comments relative to the RSID created in the area. She complained about the traffic increasing on the road that her family and a few others have paid for; whereas these other people didn't have to pay for the improvements. She objected to the road being improved by chip sealing. She said she felt the road was perfect the way it was.

Barbara Evans stated that all persons who have paid for road improvements through an RSID have been in the same situation; however, the road continues to be a public access, it can be used by everyone.

Ann Mary Dussault stated that it is important for the residents, the County and the City to work positively together to solve this issue. The road is unpaved and resides within the Air Stagnation Zone. She stated that this is unacceptable. It has been the policy of the County to work very hard to work with residents through the Aid To Construction Fund and through the RSID process to pave roads that are graveled and in the Air Stagnation Zone. She said it is critical to pave and improve the road because it is a contributor to the pollution problem. She said one of the compromise suggestions was to close the road in the summer and open it in the winter. Those kind of compromises didn't seem to make any sense. She said what seemed to make the most sense was to acknowledge what the majority of people are saying which is that the residents and the emergency response units utilize this road. She stated that if all those involved work together, the road can be improved.

Horace Brown explained that the improvements to Pineridge are necessary in order to take care of the water problems. A larger chip seal is needed in order to provide enough friction in the winter.

Michael Sehestedt said that the people who are to be assessed for an RSID have the capability to kill RSID by protest if they think the cost exceeds the benefit to them. If the majority of the residents assessed feel this way, then they can succeed in defeating the RSID. On the other hand, if they feel the benefit is sufficient to justify the cost, then the RSID goes through.

A discussion followed relative to the consequences of the RSID failing. If the RSID fails, the issue to close the road would be reopened at the September 16th, 1992 meeting. A comment was made that it would be another series of years before anything was done about the issue.

Michael Sehestedt explained that there are a number of ways in which the RSID could be assessed. Frontage of the lot to the street to be improved is one way to assess for the RSID. Another way is

based on benefit. The addresses could be plotted that would actually use the road. There is some general public benefit which is reflected by County contributions. Neighborhood RSID costs are generally picked up by the residents within the neighborhood. He said this is an unusual set of circumstances and he isn't sure how the final determination will be made.

Ann Mary Dussault stated that it is important not to take any of the figures literally because they are approximate figures. She went on to show by example how the cost to each participant would be figured out once the RSID figures were set and what the residents would expect to pay based on the example. She explained that the County will try to negotiate an equitable and reasonable distribution of the cost to try to accomplish the road improvements. She said the County understands that the cost to the residents and participants in the RSID has to be reasonable and must show that they derive benefit from it. There is a ceiling on the cost per household where it becomes either unacceptable or acceptable. During the RSID process, the residents will know the maximum cost that each will pay as homeowners. The cost cannot exceed that maximum; this is part of the contract between the County and the participants. If the bid would come in higher than what was figured, the County cannot award it; it violates the contract with the residents as participants in the RSID.

She said the City is interested in making improvements to the road. What makes the most sense to her is to get the road improved through this partnership and then have City annex the balance of the road so that one jurisdiction has the responsibility for the upkeep of the road.

Barbara Evans stated that the County very seldom deviates from its policy not to accept a road for maintenance unless it is brought to County standards. Pineridge Drive will not be maintained by the County in its present state. There are too many substandard roads in the County to maintain all of them. She said that once a SID process has been started and the boundaries have been determined as well as the cost, the residents who are involved in the RSID will be contacted as to what is proposed, what the cost will be and when the hearing will be held on whether or not the Commissioners should pass an intent to create the RSID. At this time, if the Board passes the intent to create, this starts the clock running on the protest period to kill the intention. She stated that the County does not routinely contribute funds for the upgrading of roads because the County does not have the money.

A discussion ensued relative to blocking the RSID. A question was raised if the number of lots owned would increase a landowners influence in a protest petition?

Michael Sehestedt said that the weight of protest is based on how much the property will be assessed. If the RSID is an area-based assessment and someone owns numerous lots, that person would have that much more power of protest than someone who has only one lot. However, this person would also pay that much more if the RSID was created.

It was explained that notification of the creation of the RSID would come through a letter to all of the property owners affected, with all of the information explained. Notification will also be in the newspaper. The methods used to assess for an RSID were discussed.

The motion was restated by Ann Mary Dussault as follows:

Ann Mary Dussault moved and Barbara Evans seconded the motion to keep Pineridge Drive open contingent upon the County's ability to negotiate the financial package with the City, the County and the residents for improving the road by participation in an RSID and that the Board of County Commissioners will review the progress of this issue and arrive at an equitable solution at the regularly scheduled Public Meeting on September 16, 1992, at 1:30 p.m.

Barbara Evans explained that if everything has been worked out and an RSID is in place, the issue will not have to come before the Board at that time.

Ann Mary Dussault stated that some constituents had written letters and commented about the issue being heard all over again. She stated that it is important to know why the issue is being heard again. This road has been the subject of litigation for the past six years and has involved both the City and the County as well as the petitioners. The petitioners had not exhausted all of their administrative remedies which included coming before the Board of County Commissioners and petition that the road be closed. The issue needed to be brought before the Board in order for the comments to be heard and entered into the record to air the matter publicly in order to see if there was a way to resolve the matter without proceeding to litigation. She said the Board has tried in good faith to understand everyone's point of view in order to come to a fair and equitable solution.

HEARING: USE OF OCCASIONAL SALE (BENSON) TRACT 1 OF COS NO. 2862

Marnie McClain, Deputy County Attorney, explained that Jane and Wayne Benson and Dennis Brieske have submitted an affidavit seeking approval for an occasional sale which would divide a 3.88 acre parcel of land which is just north of Cygnet Lake. The applicants currently own the property together and would like to divide the property into two parcels which would then be owned by Jane and Wayne Benson and Dennis Brieske individually.

COS 2862 was filed in 1983 by Robert E. Hardy, using two family transfer exemptions and leaving a 31.72 acre remainder to create three tracts.

According to the records kept by the Missoula County Surveyor's Office, none of the applicants have previously used any exemptions to the Subdivision and Platting Act.

The hearing was opened to public comment.

Jane Benson was present to answer questions from the Board. The property was jointly purchased in April of 1992 with Dennis Brieske to build a recreation home together. The Bensons and Mr. Brieske each had their own ideas relative to the home; therefore, they decided to split the parcel of land and build individually. The parcel is not zoned for specific lot size. The intent of both parties involved is to build separate recreation homes on this property.

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 to use the occasional sale exemption for Wayne and Jane Benson and Dennis Brieske for Tract 1 of COS 2862, based on the fact that there appears to be no intent to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

HEARING: USE OF OCCASIONAL SALE (OGDEN) Micro Book Page 274

Marnie McClain, Deputy County Attorney, explained that Steve Inabnit has submitted an occasional sale on property owned by Mary M. Freese Ogden. This is a parcel of property which is 12.89 acres in size, located six miles north of Seeley Lake. The applicant proposes to create a 7.89 and a 5.0 acre parcel. Ms. Ogden's affidavit says that the purpose of the division is "sell as a single family residence tract".

According to Ms. Ogden's affidavit, there have been no divisions of this land since 1974.

According to the records kept by the Missoula County Surveyor's Office, Mary M. Freese Ogden has not previously used exemptions to the Subdivision and Platting Act.

The hearing was opened to public comment.

Andy Fisher, Eli & Associates, stated that Ms. Ogden, who lives on the property, wishes to sell the tract in order to update and bring in some "modern conveniences" to their residence.

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

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the occasional sale exemption on the property owned by Mary M. Freese Ogden described at Micro Book Page 274, with the finding that there is no attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

HEARING: USE OF OCCASIONAL SALE (FLYNN) Tract 1 COS 897; Tract 10 COS 3176 and COS 1498

Marnie McClain, Deputy County Attorney, explained that Tim Wolfe of Territorial Engineering and Surveying has submitted an affidavit for a boundary relocation for Emmett Flynn, Elmer Flynn and Kathleen McKinnon for their property located in Missoula County. The purpose of the boundary relocations to make the existing irrigation ditch the boundary between adjoining owners instead of the section line. According to information submitted by Tim Wolfe, Emmett and Kathryn Flynn own Tract 1 COS 897 and the large acreage to the west. Kathleen McKinnon wants to acquire the property north of the irrigation ditch which is located in front of her residence. Elmer Flynn, who is Kathleen McKinnon's brother and owns property to the west of her, will transfer a 1.41 acre parcel of property located south of the irrigation ditch to Emmett and Kathryn Flynn in exchange for their transfer of property to Kathleen McKinnon. According to the records kept by the Missoula County Surveyor's Office, Elmer Flynn has made rather extensive use of exemptions to the Subdivision and Platting Act, including an occasional sale in 1976 and 1980, and an agricultural exemption and a remainder in 1979. He and several others are also credited with creating 9 lots in excess of twenty acres in 1985 and 4 lots in excess of twenty acres in approximately 1990. Kathleen McKinnon used the gift exemption in 1976. Emmett Flynn has no history of the use of exemptions.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the boundary relocation for Emmett Flynn, Elmer Flynn and Kathleen McKinnon for Tract 1 COS 897; Tract 10 COS 3176 and COS 1498. The motion carried on a vote of 2-0.

Marnie McClain said that the occasional sale is proposed by Emmett and Kathryn Flynn. They propose to split one acre from the Tract 1 of COS 897 after the boundary relocation. COS 897 was created in

1976 by a court order. Tract 1 was not included in the court order, but was the remainder piece. According to the records kept by the Missoula County Surveyor's office, Emmett and Kathryn Flynn have not previously used exemptions to the Subdivision and Platting Act.

The hearing was opened to public comment.

Kathryn and Emmett Flynn explained to the Board their desire to relocate the boundaries and in exchange for their transfer of property to Kathleen McKinnon, she will transfer a 1.41 acre parcel of property located south of the irrigation ditch to Emmett and Kathryn Flynn.

Ann Mary Dussault explained that the Flynn's would probably not be able to divide their property any further. She suggested that in the future, if they wish to divide the property, they come in and do a master plan of the area and a subdivision.

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 occasional sale from Tract 1 COS 897, after the boundary relocation, with the finding that there is no intent to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

HEARING: (USE OF OCCASIONAL SALE (KOCH) Parcel of Property Described at Book 113 Micro Page 100

Marnie McClain, Deputy County Attorney, explained that Tim Wolfe, of Territorial Engineering and Surveying has submitted an affidavit for an occasional sale on property owned by Earl Raske and Stanley Koch. This is a 10.21 acre parcel of property adjacent to the Ponda Rosa Acres subdivision located near Alberton. According to a letter submitted by Tim Wolfe, this parcel was the original ranch home which was excluded from the Ponda Rosa Acres subdivision. The parcel was purchased by Mr. Koch, Mr. Raske, and Peter Dress. Mr. Dress died recently. Mr. Koch and Mr. Raske wish to divide the property between them and settle a boundary problem which was recently discovered. The occasional sale would initially create an 8.14 acre parcel of land and a 1.52 acre of land. This would be followed by a boundary relocation, as follows:

The proposed boundary relocation would add 1.48 acres from the east which is presently owned by the Gilmores. The parties recently discovered that what was previously believed to be the east boundary of the property owned by Raske, Koch and Dress, marked by a fence, was wrong by 150 feet, to the detriment of the Gilmores. In order to correct this, the Gilmores have agreed to sell the 150 feet to Stanley Koch, which would then make his parcel approximately three acres.

According to the occasional sale affidavit, Koch, Raske and Dress deeded approximately half an acre to settle another boundary dispute in 1985. The records of the Missoula County Surveyor show that Koch, Raske and Gilmore have no history of use of exemptions to the Subdivision and Platting Act.

The hearing was opened to public testimony.

Tim Wolfe, Territorial Engineering and Surveying, explained that a fence had been located on what his clients thought was their boundary for the past 15 years. The 150 foot error was discovered when the property was surveyed for the occasional sale. The Gilmores own the 150 feet which is a horse pasture and don't wish to keep it.

He explained that the Ponda Rosa subdivision was done quite a few years ago; a ten acre piece was left out of the subdivision. The old ranch is located on this ten acre piece. Mr. Koch, Mr. Dress and Mr. Raske bought the ranch as a second or vacation home. Mr. Koch bought Mr. Dress' portion of the property from his heirs when he died and so will end up with the bigger piece. Mr. Raske will end up with three acres.

A discussion followed relative to the size of the lots in the Ponda Rosa Subdivision. It was concluded that the lot size is five acres. Together with the boundary relocation and the new lot created by the occasional sale, the small lot would be made into a three acre lot owned by Mr. Raske. Money has already been deposited in to an escrow account by Mr. Raske for the boundary relocation.

There being no further testimony, the hearing was closed.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the occasional sale and the boundary relocation for Stanley Koch, Earl Raske and Bruce and Audrey Gilmore for the boundary relocation for a parcel of property described at Book 113 Micro Page 100. The motion carried on a vote of 2-0.

HEARING: USE OF OCCASIONAL SALE (BANDY) Book 305 Micro Page 55

Marnie McClain, Deputy County Attorney, explained that Andy Fisher has submitted an affidavit for an occasional sale exemption on property owned by Harry M. Bandy. This is a parcel of property slightly larger than 40 acres in size, located in the Potomac. The applicant proposes to create a 6.12 acre parcel for sale with a 34.01 acre remainder.

According to the Mr. Bandy's affidavit, there have been no divisions of this land since 1974.

According to the records kept by the Missoula County Surveyor's Office, Harry Bandy has used the boundary relocation exemption in 1982 and 1983. In 1988, he created four lots of over 20 acres.

The hearing was opened to public comment.

Andy Fisher, Eli & Associates, explained that the other land splits Mr. Bandy has done have been boundary relocations; there were other owners involved in the land splits.

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

Barbara Evans stated that she felt she could vote in favor of the request if there is a clear understanding if Mr. Bandy comes in with anything else, it will be meticulously scrutinized.

Andy Fisher explained that Mr. Bandy is splitting the parcel and selling the piece in order to save his place.

Ann Mary Dussault moved and Barbara Evans seconded the motion to approve the occasional sale exemption for Harry Bandy for a parcel of land described at Book 305 Micro Page 55 based on the testimony that this transaction will allow the owner of the remainder of the occasional sale to maintain the residence. The Bandys will be notified by Andy Fisher of Eli & Associates that any further attempt to divide the land will be meticulously scrutinized with regards to evading the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

HEARING: FAMILY TRANSFER (MANNING) TRACT 12B OF COS 3616

Marnie McClain, Deputy County Attorney, explained that Larry Manning has submitted an affidavit seeking a family transfer exemption for Tract 12B of COS 3616. This is a 10 acre parcel in the Big Flat area. According to the affidavit, it was a part of the Riverwood subdivision which was denied in the 1970's.

COS 3616 was filed in 1988 by Larry and Carol Manning, using the occasional sale exemption to divide a 20 acre parcel into two 10 acre parcels. The 20 acre parcel was created by COS 1131, filed in 1977. This COS created eighteen parcels of 20 or more acres.

According to the records kept by the Missoula County Surveyor's Office, Larry and Carol Manning have used the occasional sale exemption in 1988.

It was concluded that no one was present to represent Mr. Manning.

Ann Mary Dussault moved and Barbara Evans seconded the motion to postpone the hearing until the Mannings could be represented to answer questions from the Board. The motion carried on a vote of 2-0.

The hearing for the family transfer requested by Larry Manning was postponed until July 1, 1992.

There being no further business to come before the Board, the Commissioners were in recess at 3:30 p.m.

* * * * *

JUNE 25, 1992

The Board of County Commissioners did not meet in regular session; Commissioner Dussault was on vacation June 25th and 26th, and Commissioner Stevens was out of the office all day. In the afternoon, Commissioner Evans met with a group of City officials from Osaka, Japan who are visiting the United States.

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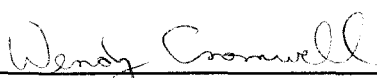
JUNE 26, 1992

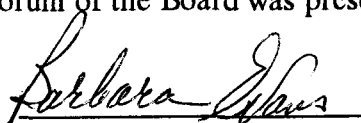
FISCAL YEAR:

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379

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


Wendy Cromwell, Clerk & Recorder


Barbara Evans, Chairman

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JUNE 29, 1992

The Board of County Commissioners did not meet in regular session. Commissioner Dussault was on vacation June 29th & 30th; and Commissioner Evans was out of the office all day, but available for signatures.

Indemnity Bond

Acting Chairman Janet Stevens signed an Indemnity Bond naming Patricia Marlene Reeves as principal for warrant #10676, dated June 19, 1992, on the Hellgate Elementary School District #4 General Fund in the amount of \$269.22 now unable to be found.

DAILY ADMINISTRATIVE MEETING

The Commissioners did not hold a formal administrative meeting; however, the following items were signed:

Contract for Nutrition Services

Chairman Evans signed a contract for Nutrition Services between the Western Montana Comprehensive Development Center and Missoula County for contracted nutritionist services, as per the provisions and terms set forth, for the period beginning October 1, 1992 and ending June 30, 1993, for a payment of \$19 per hour, not to exceed \$403.00. The Contract was returned to the Health Department for further signatures and handling.

Professional Services Contract

The Board of County Commissioners signed a contract between Missoula County and Caroline J. Brinkley, MD, an independent contractor, for the purpose of providing medical care, quality assurance of clinical services and participation in the development of primary care policies and standards for the Missoula City-County Health Department, as per the terms set forth, through September 30, 1992, with payment at the rate of \$35 per hour. The contract was returned to the Health Department for further signatures and handling.

Memorandum of Agreement

The Board of County Commissioners signed a Memorandum of Agreement between Missoula County and the Missoula County Museum Board for the purpose of providing financial assistance to the Museum for financing the cost of repairs to the heating system and installation of an air conditioning system for the Museum Building in the amount of \$9,020.00, as per the terms set forth, with the repayment period not to exceed five years ending December 31, 1996.

Nutritional Services Agreement

The Board of County Commissioners signed a Nutritional Services Agreement between the Missoula City-County Health Department and Child Start, Inc., sponsor of the Health Start Program, for the purpose of providing nutrition services to the Head Start Program, as per the items and terms set forth, for the period from September 1, 1991, until May 31, 1992 (FY'92), for a total payment to the Health Department of \$675.00. The Agreement was returned to the Health Department for further signatures and handling.

Nutritional Services Agreement

The Board of County Commissioners signed a Nutritional Services Agreement between the Missoula City-County Health Department and Child Start, Inc., sponsor of the Health Start Program, for the purpose of providing nutrition services to the Head Start Program, as per the items and terms set forth, for the period from September 1, 1992 until May 31, 1993 (FY'93), for a total payment to the Health Department of \$675.00. The Agreement was returned to the Health Department for further signatures and handling.

Conditional Warranty Deed

The Board of County Commissioners signed a Conditional Warranty Deed from Missoula County to the Missoula Housing Authority for Lots 18, 19 and 20 in Block 27 of East Missoula, a platted subdivision

in Missoula County, subject to the restrictive condition and terms set forth. The Deed was returned to Cindy Wulfekuhle in the CDBG Office for further handling.

Satellite Agreement - Mineral County Wic Program

The Board of County Commissioners signed an Agreement between the Mineral County Health Department and the Missoula County Health Department for the purpose of performing the administrative, supervisory, and fiscal services for the WIC Program in Mineral County, as per the mutual covenants and stipulations set forth. The Agreement was returned to the Health Department for further signatures and handling.

Professional Services Contracts

The Board of County Commissioners signed two Professional Services Contracts between Missoula County and David J. Larson and Monica Bauer, both 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, beginning January 1, 1992, as required by class schedules until the contract is terminated by either party, with payment at the rate of \$10.00 per hour.

Labor Agreement

The Board of County Commissioners signed the Settlement of the Jail Contract between Missoula County and Teamsters Local #2 for the period from July 5, 1992, through June 30, 1993, as per the detention officer pay schedule attached to the Contract. The Contract was returned to John Pemberton, Director of Personnel and Labor Relations, for further handling.

Other items included:

The Commissioners concurred with the recommendation of Deputy County Attorney, Mike Sehestedt, regarding SUID No. 146990, Montana Lumber Sales property, and feel that it is appropriate to void the tax deed and accept payment of the taxes; even though the County acted properly at each step, the result was so unfair.

* * * * *

June 30, 1992

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. 92-056

The Board of County Commissioners signed Resolution No. 92-056, a Resolution of Intention to Create RSID No. 445 for the purpose of constructing roadway improvements to portions of Lower Miller Creek Road and Linda Vista Blvd., Missoula County, as per the terms set forth, setting the hearing date for July 22, 1992, at 1:30 p.m. The Resolution was returned to Jesse Sattley in General Services for further handling.

Other items included:

The Commissioners discussed the initial meeting of the State Rural Development Council (SRDC); John DeVore, Administrative Officer, will represent Missoula County on the Council.

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

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