

March 2017

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## Missoula County Commissioners' Journal: March, 2017

BCC = Board of County Commissioners  
 JC = Commissioner Jean Curtiss, Chair  
 NR = Commissioner Nicole ("Cola") Rowley  
 DS = Commissioner Dave Strohmaier

The following claims lists were signed in March 2017:

Date Signed	Claims List Dated	Signed	Voucher No.	Amount	
March 2, 2017	March 1, 2017	NR, DS, JC	1823	\$28,921.94	
	March 2, 2017		1824	\$5,864.93	
			1825	\$89,424.56	
			1826	\$550.00	
March 3, 2017	March 3, 2017	DS, JC	1827	\$7,097.75	
			1828	\$47,962.58	
Total Report for March 3, 2017				\$1,622,584.35	
March 6, 2017	March 6, 2017	DS, JC	1829	\$1,052.57	
			1831	\$81,169.67	
March 1, 2017	PHC Smartfill ACH			\$107,550.09	
March 3, 2017	PHC Amerisource ACH			\$26,175.00	
March 7, 2017	March 6, 2017	DS, JC	1830	\$920.05	
	March 7, 2017		1833	\$18,536.11	
March 8, 2017	March 8, 2017		1834	\$23,115.37	
			1835	\$52,572.86	
March 9, 2017	March 9, 2017		1836	\$883,217.66	
March 10, 2017	March 10, 2017		1837	\$1,250.00	
			1838	\$66,743.22	
			1839	\$232.00	
March 8, 2017	PHC Smartfill ACH			\$141,297.02	
March 10, 2017	PHC Amerisource ACH			\$66,270.65	
March 13, 2017	March 13, 2017	NR, DS, JC	1840	\$111,366.85	
March 16, 2017	March 15, 2017		1841	\$110,366.73	
			1842	\$18,895.20	
			1843	\$48,220.61	
			1844	\$365.34	
			1845	\$3,435.79	
March 16, 2017	March 16, 2017	JC, NR	1846	\$454.27	
			1847	\$28,344.22	
			1848	\$115,009.87	
			Total Report for March 16, 2017		
March 17, 2017	March 17, 2017	JC, NR	1849	\$11,440.83	
			1850	\$550,558.89	
March 15, 2017	PHC Smartfill ACH			\$139,618.33	
March 17, 2017	PHC Amerisource ACH			\$41,646.71	

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 Tyler R. Gernant, Missoula County Clerk & Recorder  
 eRecording

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Date Signed	Claims List Dated	Who Signed	Voucher No.	Amount	
March 21, 2017	March 20, 2017	JC, NR	1851	\$16,067.24	
			1852	\$32,283.19	
	March 21, 2017		1853	\$5,702.75	
			1854	\$62,154.56	
March 22, 2017	March 22, 2017		1857	\$3,000.00	
			1858	\$15,494.53	
			1859	\$138,980.11	
March 23, 2017	March 23, 2017	JC, NR, DS	1860	\$13,436.66	
March 24, 2017	March 24, 2017		1861	\$151,759.84	
			1862	\$12,815.68	
March 27, 2017	March 27, 2017		1863	\$2,289.60	
			1864	\$286.80	
March 22, 2017	PHC Smartfill ACH			\$203,896.46	
March 24, 2017	PHC Amerisource ACH			\$25,454.40	
March 28, 2017	March 28, 2017	JC, NR, DS	1866	\$65,839.02	
			1867	\$40,512.42	
			1868	\$1,843.50	
March 29, 2017	March 28, 2017	JC, NR	1869	\$7,900.00	
	March 29, 2017		1870	\$70,946.15	
			1871	\$780.00	
March 30, 2017	March 30, 2017	JC, NR, DS	1872	\$1,241.25	
			1873	\$15,911.09	
			1874	\$57,984.05	
			1875	\$817.92	
March 31, 2017	March 31, 2017		1876	\$70.00	
			1877	\$4,700.00	
			1878	\$1,191.08	
			1879	\$53,592.97	
			1880	\$18,894.40	
			1881	\$681.02	
March 29, 2017	PHC Smartfill ACH			\$90,816.11	

All claims lists were returned to Financial Services.

**Wednesday, March 01, 2017**

BCC did not meet in regular session. BCC out of office all day at Systematic Development of Informed Consent Training.

**Calendar**

8:30 a.m. - 5:30 p.m.	BCC - Systematic Development of Informed Consent Training
11:30 a.m. - 1:30 p.m.	JC - Missoula Economic Partnership Investor Luncheon
12:00 p.m. - 1:00 p.m.	NR - Partners for Reintegration

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**Items for Signature**

Letter No. 2017-055 - BCC signed. Dated March 1, 2017 to appoint Jim McDonald as an alternate member of the Historical Museum Board for a new three-year term beginning immediately and will run through Dec. 31, 2019.

Letter No. 2017-056 - BCC signed. Dated March 1, 2017 to thank Pat Gruber for his application to serve on the Historical Museum Board although a different applicant was chosen.

Letter No. 2017-057 - BCC signed. Dated March 1, 2017 to acknowledge resignation and to thank Lisa Clark for her time served on the Seeley Lake Cemetery District Board.

Letter No. 2017-058 - BCC signed. Dated March 1, 2017 to acknowledge resignation and to thank Paul Heihn for his time served on the Weed Control Board.

Letter No. 2017-059 - BCC signed. Dated March 1, 2017 to acknowledge resignation and to thank Klaus von Stutterheim for his time served on the Open Lands Citizen Advisory Committee.

**Administrative Meeting**

The BCC administrative public meeting for March 1, 2017 was canceled.

**Thursday, March 02, 2017**

BCC did not meet in regular session. BCC out of office all day at Systematic Development of Informed Consent Training.

**Calendar**

8:30 a.m. - 12:15 p.m.	BCC - Systematic Development of Informed Consent Training -- Grant Creek Inn
12:15 p.m. - 1:30 p.m.	BCC - Missoula Delegation Lunch
1:00 p.m. - 2:00 p.m.	DS - Missoula Food Bank -- DS Office
2:00 p.m. - 3:00 p.m.	BCC - Chief Operating Officer Update
2:30 p.m. - 3:30 p.m.	NR - Lolo School Teleconference
3:30 p.m. - 4:00 p.m.	BCC - Interview Fair Event Committee - Peter HagEstad
4:00 p.m. - 5:00 p.m.	BCC - Jason Johnson's Retirement party
5:00 p.m. - 7:00 p.m.	NR - Zero Waste Advisory Group Public Meeting

**Items for Signature**

Letter No. 2017-061 - BCC signed. Dated March 2, 2017 to amend Letter No. 2016-116 to Connie Clark which did not accurately reflect appointed term. Ms. Clark filled a vacant term on the Seeley Lake Rural Fire District Board that will run Sept. 14, 2016 through May 31, 2018.

Letter No. 2017-062 - BCC signed. Dated March 2, 2017 to amend Letter No. 2016-104 to Leigh Kelley which did not accurately reflect appointed term. Ms. Kelley filled a vacant term on the Greenough-Potomac Rural Fire Board of Trustees that will run Aug. 9, 2016 through May 31, 2018.

**Administrative Meeting**

The BCC administrative public meeting for March 2, 2017 was canceled.

**Friday, March 03, 2017**

JC and DS met in regular session; quorum present. NR out of office all day.

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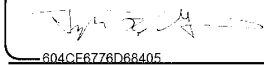
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**Calendar**

9:00 a.m. - 10:00 a.m.	BCC - Parks and Trails
10:00 a.m. - 11:00 a.m.	DS - Matt Lautzenheiser
11:30 a.m. - 12:30 p.m.	DS - Jessica Morris & Dori Brownlow
1:00 p.m. - 3:00 p.m.	DS - Emily Bentley

**Journal Approval**

DocuSigned by:


Tyler Gernant  
Clerk & Recorder

DocuSigned by:


Jean Curtiss, Chair  
BCC**Monday, March 06, 2017**

JC and DS met in regular session; quorum present. NR out of office all day.

**Calendar**

9:30 a.m. - 11:00 a.m.	BCC - Missoula, Seeley Lake and Nine Mile Ranger District updates
11:30 a.m. - 12:30 p.m.	DS - Bill Carey
1:30 p.m. - 2:30 p.m.	BCC - Montana Department of Transportation
4:00 p.m. - 5:00 p.m.	DS - Roger Hinthner

**Items for Signature**

Monthly Report – JC examined, approved, and ordered filed the monthly reconciliation report for Clerk of District Court, Shirley Faust. Details of fees and collections for Feb. 2017.

Letter- 2017-066 - JC and DS signed. Dated March 6, 2017 to Nathan Nurre confirming approval of family transfer exemption. BCC approved transfer at a public hearing on Feb. 23, 2017.

Letter- 2017-067 - JC and DS signed. Dated March 6, 2017 to Reagan Remmers to congratulate her for victory at the Missoula County Spelling Bee.

**Tuesday, March 07, 2017**

JC and DS met in regular session; quorum present. NR out of office all day.

**Calendar**

9:00 a.m. - 10:00 a.m.	BCC - Chief Administrative Officer Update
10:00 a.m. - 11:11 a.m.	BCC - Commissioners' Administrative Public Meeting
11:00 a.m. - 12:00 p.m.	BCC - Community and Planning Services/Public Works/Health Department
1:00 p.m. - 3:00 p.m.	DS - CAPS Staff Meet and Greet
2:00 p.m. - 3:00 p.m.	JC - Tax Increment Financing and Zoning
3:00 p.m. - 4:00 p.m.	BCC - Litigation Discussion
4:00 p.m. - 4:30 p.m.	BCC - Free Cycles Update
5:00 p.m. - 6:00 p.m.	DS - Jason Wiener

**Items for Signature**

Indemnity Bond – JC signed. Lloyd Alan Nickle, Rochester, MN. Missoula County Detention Facility warrant 60044054 issued on Nov. 14, 2016. Amount \$51.84 for funds on account at release. Warrant lost.

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Request Records Disposal/Transfer Authorization – JC signed. From County Attorney's Office. Disposal Number 2013-08: 1) Dependent Neglect Pre 1998 (07/1969–07/1995); 2) Dependent Neglect Pre 2001 (08/1974–02/2001); 3) Dependent Neglect Pre 2002 (08/1982–05/2000).

Request Records Disposal/Transfer Authorization – JC signed. From County Attorney's Office. Disposal Number 2017-19: 1) Dependent Neglect Pre 2009 (12/1989-12/1994) 2013; 2) Dependent Neglect Pre 2009 (08/1987-12/1995) 2014; 3) Dependent Neglect Pre 2013 (11/1990-12-1995) Box #2; 4) Dependent Neglect Pre 2014 (11/1989-12/1992) Box #1; 5) Dependent Neglect Pre 2014 (08/1985-11/1995) Box #3,4,5 & 6; 6) Dependent Neglect Pre 2015 (12/1978-02/1994) Box #4,14,16 & 23.

Request Records Disposal/Transfer Authorization – JC signed. From County Attorney's Office. Disposal Number 2014-05: 1) Dependent Neglect Pre 2009 (08/1987-08/1992) 2011.

Request Records Disposal/Transfer Authorization – JC signed. From County Attorney's Office. Disposal Number 2015-22: 1) Dependent Neglect Pre 2009 (10/1988-12/1993) 2012; 2) Dependent Neglect Pre 2013 (07/1993-12/1993) Box #1; 3) Dependent Neglect Pre 2014 (01/1985-12/1993) Box #2.

Letter No. 2017-072 - JC and DS signed. Dated March 7, 2017 to thank Ron Schlader for applying to the County Parks and Trails Advisory Board although another applicant was appointed.

Letter- 2017-073 - JC and DS signed. Dated March 7, 2017 to thank Susan Miltko for applying to the County Parks and Trails Advisory Board although another applicant was appointed.

### Administrative Meeting

**BOARD OF COUNTY COMMISSIONERS  
ADMINISTRATIVE PUBLIC MEETING MINUTES  
MISSOULA COUNTY ADMINISTRATION BUILDING, 199 WEST PINE STREET, ADMIN ROOM 206  
March 7, 2017 Start 10:00 a.m. - End 11:11 a.m.**

**ATTENDANCE Present:** Jean Curtiss, David Strohmaier, Vickie Zeier, Chris Lounsbury, Anne Hughes, Barbara Berens, Dori Brownlow, Annie Cathey, Katie Klietz, Ellen Leahy, Greg Robertson, Patricia Baumgart

**Other Attendees:** Sindie Kennedy, Rita Henkel

**I. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA** None

**II. ACTION ITEMS**

**1. Request board approve recommendation of the Library Board of Trustees to award alternative project delivery contract to Dick Anderson Construction.**

**Presenter:** Dori Brownlow

**Moved:** David Strohmaier

**Second:** Jean Curtiss

**Motion:** Motion passed as written

**Vote:** Yes 2, No 0, Abstained 0

**Additional Info:** Approval of awarding the General Contractor Construction Management Contract to Dick Anderson Construction based on procedures for selection of a contractor in Resolution 2016-166. Chair to sign resolution.

Resolution 2017-032. Filed with Clerk and Recorder/Treasurer's Office. Original to Dori Brownlow, Commissioners' Office.

**2. Request board approve amendment no. 3 to the Missoula to Lolo Trail Project grant agreement with the US Department of Transportation. The purpose of the amendment is to revise project termination point as requested by the City of Missoula.**

**Presenter:** Greg Robertson

**Moved:** David Strohmaier

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**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0

**Additional Info:**

Original to Greg Robertson, Public Works.

**3. Request board approve and chair sign Environmental Certifying Official Designation and sign a Resolution to appoint Sindie Kennedy as the Environmental Certifying Official for the Buena Vista Wastewater System Improvement Project.**

**Presenter:** Sindie Kennedy  
**Moved:** David Strohmaier  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0

**Additional Info:**

Resolution 2017-030. Filed with Clerk and Recorder/Treasurer's Office. Original to Sindie Kennedy, Community and Planning Services (CAPS) - Grants.

**4. Request board approve chair sign grant agreement between the Montana Department of Natural Resources and Conservation and the County of Missoula for the Buena Vista Wastewater System Improvement Project.**

**Presenter:** Sindie Kennedy  
**Moved:** David Strohmaier  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0

**Additional Info:** DNRC funding of project up to \$47,615.

Original to Sindie Kennedy, CAPS - Grants.

**5. Request board reappoint Andy Hayes and Dennis Vander Meer to the Weed Control Board.**

**Presenter:** Sarah Bell  
**Moved:** David Strohmaier  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0  
**Additional Info:** Both terms run 1/1/2017 - 12/31/2019

Original to Sarah Bell, Commissioners' Office. Letters of appointment mailed by Commissioners' Office. Letter No. 2017-063 to Andy Hayes. Letter No. 2017-064 to Dennis Vander Meer.

**6. Request board appoint Elizabeth Oleson as a regular member to the Open Lands Committee.**

**Presenter:** Sarah Bell  
**Moved:** David Strohmaier  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0  
**Additional Info:** Term runs 01/01/2017 - 12/31/2019

Original to Sarah Bell, Commissioners' Office. Letters of appointment mailed by Commissioners' Office. Letter No. 2017-060 to Elizabeth Oleson.

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**7. Request board reappoint Sue Brown to a new three-year term to the Parks and Trails Advisory Board. Request board appoint a new second alternate member to the Parks and Trails Advisory Board.****Presenter:** Sarah Bell**Moved:** David Strohmaier**Second:** Jean Curtiss**Motion:** Motion passed as written**Vote:** Yes 2, No 0, Abstained 0**Additional Info:** Sue Brown's new term to run 7/1/2016 through 06/30/2019. Tom Aldrich appointed to

fill vacant alternate position; term expires 6/30/2018.

Original to Sarah Bell, Commissioners' Office. Letters of appointment mailed by Commissioners' Office. Letter No. 2017-065 to Sue Brown. Letter No. 2017-071 to Tom Aldrich.

**8. Request board appoint three elected officials to serve on the FY 2018 County Compensation Board.****Presenter:** Patricia Baumgart

Sarah Bell

**Moved:** David Strohmaier**Second:** Jean Curtiss**Motion:** Motion passed as written**Vote:** Yes 2, No 0, Abstained 0**Additional Info:** Appointed: Tyler Gernant, Shirley Faust, Marie Andersen

Original to Sarah Bell, Commissioners' Office. Letters of appointment mailed by Commissioners' Office. Letter No. 2017-068 to Tyler Gernant. Letter No. 2017-069 to Shirley Faust. Letter No. 2017-70 to Marie Andersen.

**9. Approve budget amendment in the amount of \$22,967 for HIV Early Intervention Services contract from DPHHS.****Presenter:** Ellen Leahy**Moved:** David Strohmaier**Second:** Jean Curtiss**Motion:** Motion passed as written**Vote:** Yes 2, No 0, Abstained 0**Additional Info:** Authorize FY17 expenditure and remainder of \$35,000 grant to be reserved for FY18.

Resolution 2017-031. Filed with Clerk and Recorder/Treasurer's Office. Original to Teresa Graham, Financial Services.

**III. CORRESPONDENCE** None**IV. DISCUSSION ITEMS**

1. Discussion on protested taxes
2. Upcoming board meeting and review of meeting.
3. Legislative Review
4. Notification from Health Dept. to Granite County that Contract for Public Health Nursing Services will not be renewed for FY 18.

**V. UPCOMING EVENTS AND INVITATIONS** None**VI. OTHER COMMENTS/INSTRUCTIONS** None

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**Wednesday, March 08, 2017**

JC and DS met in regular session; quorum present. NR out of office all day.

**Calendar**

8:00 a.m. - 8:30 a.m.	DS - Nick Checota
9:00 a.m. - 10:00 a.m.	BCC - Clerk & Recorder/Treasurer
10:05 a.m. - 11:08 a.m.	BCC - Commissioners' Administrative Public Meeting
11:00 a.m. - 11:30 a.m.	BCC - Interview Library Board - Barbara Berens
11:30 a.m. - 12:00 p.m.	BCC - Patty Baumgart
12:00 p.m. - 1:00 p.m.	DS - Corey Aldridge
2:00 p.m. - 3:00 p.m.	BCC - Service Awards Ceremony
3:30 p.m. - 4:30 p.m.	DS - Tom Bensen

**Items for Signature**

County Payroll Transmittal Sheet – BCC signed. Pay Period: 05/CY2017 – pay date March 3, 2017. Total Payroll \$1,759,630.31. To Barbara Berens, Auditor's Office.

Employee Benefits Claims – BCC signed. Employee Benefits Manual Check Claims dated March 1, 2017. Amount \$55,653.20. To Barbara Berens, Auditor's Office.

Letter No. 2017-074 - JC and DS signed. Dated March 8, 2017– Confidential grievance correspondence.

Tax Abatement Requests - At meeting with Tyler Gernant, Clerk & Recorder on March 8, 2017, BCC approved following letters that were dated March 8, 2017.

- Approving request from David, Paul, and Mark Glidewell, Missoula, for a refund of last five years of taxes paid in error due to a mistake made in the assessment of taxpayer ID No. 2483803.
- Approving request from Doug Woodahl, Missoula, for a refund of first half of 2016 penalty and interest paid regarding Taxpayer ID No. 1232707.
- Approving request from Emily Withrow and Patrick Severtson, Missoula, for a refund of last five years of taxes paid in error due to a mistake made in the assessment of taxpayer ID No. 1233805.
- Approving request from Roy and Susan O'Connor, Missoula, for a refund of last five years of taxes.
- Approving request from Sharon Breeton, Missoula, for a refund of the reprinting fees for the registration of a vehicle with last four of the VIN #4033.
- Approving request from Thomas W. Parker, Condon, to abate and delete the 2016 mobile home tax bill regarding taxpayer ID No. 90279100.

**Administrative Meeting**

**BOARD OF COUNTY COMMISSIONERS  
ADMINISTRATIVE PUBLIC MEETING MINUTES  
MISSOULA COUNTY ADMINISTRATION BUILDING, 199 WEST PINE STREET, ADMIN ROOM 206  
March 8, 2017 Start 10:05 a.m. - End 11:08 a.m.**

**ATTENDANCE Present:** Jean Curtiss, David Strohmaier, Vickie Zeier, Andrew Czorny, Chris Lounsbury, Anne Hughes, Patty Baumgart, Barbara Berens, Dori Brownlow, Annie Cathey, Katie Klietz

**Other Attendees:** Erik Dickson, Laurie Hire, Nicole Rush, Emily Bentley

**I. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA** None

**II. ACTION ITEMS**

**1. Request board approve professional services agreement between Missoula County and Summit Golf Management LLC for operation of the Larchmont Golf Course.** Postponed

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**2. Request board approve letter regarding waiving a new floodplain permit for the 44 Ranch Floodplain due to permit was received when the project was initiated.**

**Presenter:** Vickie Zeier  
**Moved:** David Strohmaier  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0  
**Additional Info:** Recommendation that a new flood plain permit was not needed because a permit was issued when the project was initiated.  
Original to Vickie Zeier, Commissioners' Office.

**3. Request Board approve chair to sign DNRC permit renewal application for the Seeley Lake gravel pit.**

**Presenter:** Erik Dickson  
**Moved:** David Strohmaier  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0  
**Additional Info:** No new gravel to be crushed, but pit location is valuable to Seeley Lake operations and lease agreement allows for continued storage of stockpiled materials.  
Original to Erik Dickson, Public Works.

**4. Request board approve chair sign amended business assistance agreement between Missoula County and Advanced Technology Group to renew the contract for an additional year.**

**Presenter:** Nicole Rush  
**Moved:** David Strohmaier  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0  
**Additional Info:**

Filed with the Clerk and Recorder/Treasurer's Office. Original to Nicole Rush, Bitterroot Economic Development District.

**5. Request Board of County Commissioners make an offer to purchase lot in the Development Park for the purchase price of \$1,475,000, after consideration of other uses of Missoula County Airport Tax Increment Financing Industrial District funds with Board Chair given authority to sign the Buy-Sell Agreement. Postponed****6. Request board approve chair to sign memorandum of agreement with the City of Missoula Parks and Recreation Department for a feasibility study to analyze and recommend which particular ice type and related amenity combination work best for the Missoula ice market.**

**Presenter:** Emily Bentley  
**Moved:** David Strohmaier  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0  
**Additional Info:** Consultant to be paid up to \$9,000. City of Missoula will contribute up to \$2,000 with remainder to be contributed by Missoula County.

Filed with the Clerk and Recorder/Treasurer's Office. Original to Emily Bentley, Fairgrounds Management.

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**7. Request board consider the West Valley Community Council FY17 budget request.****Presenter:** Laurie Hire**Moved:** David Strohmaier**Second:** Jean Curtiss**Motion:** Motion passed as written**Vote:** Yes 2, No 0, Abstained 0**Additional Info:** West Valley Community Council seeking \$1,000 for advertising, meeting expenses, and post office box rental.

Filed with the Clerk and Recorder/Treasurer's Office. Original to Laurie Hire, Community and Planning Services.

**III. CORRESPONDENCE** None**IV. DISCUSSION ITEMS**

1. Discussion on entry rates of pay.
2. Legislative Update

**V. UPCOMING EVENTS AND INVITATIONS**

1. Missoula Urban Indian Health Center Indigenous Film Festival - Friday-Sunday June 9th - 11th

**VI. OTHER COMMENTS/INSTRUCTIONS** None**Thursday, March 09, 2017**

JC and DS met in regular session; quorum present. NR out of office all day.

**Calendar**

8:00 a.m. - 9:00 a.m.	DS - Rich Lane
9:30 a.m. - 11:30 a.m.	DS, JC - Community Champions Day 2017
12:00 p.m. - 1:00 p.m.	DS, JC - Sustainable Communities Benefit Luncheon
2:00 p.m. - 3:28 p.m.	BCC - Commissioners' Public Meeting

**Administrative Meeting**

The BCC administrative public meeting for March 9, 2017 was canceled.

**Public Meeting**

Meeting minutes linked to the audio recording of public meetings are available online on the Missoula County Commissioners' Meeting Minutes & Agenda portal. The portal may be found at the following web address:  
<https://www.missoulacounty.us/government/administration/commissioners-office/commissioners-meeting-agenda-portal>

MISSOULA BOARD OF COUNTY COMMISSIONERS  
PUBLIC MEETING MINUTES  
CONFERENCE ROOM 151 – COURTHOUSE ANNEX  
THURSDAY, MARCH 9, 2017 - 2:00 PM

**1. CALL TO ORDER****Commissioners Present:**

Chair Jean Curtiss

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Commissioner David Strohmaier

**Staff Present:**

Jennie Dixon, Planner – Community and Planning Services

Jamie Erbacher, Planner – Community and Planning Services

John Hart, Civil Deputy Attorney – County Attorney's Office

**2. PLEDGE OF ALLEGIANCE**

**3. PUBLIC ANNOUNCEMENTS**

**Commissioner Curtiss** – Today, we have a public announcement, a proclamation that Commissioner Strohmaier will read.

**Commissioner Strohmaier** – Okay. Commissioner Curtiss and I had the opportunity earlier today to attend an event recognizing the good work of Missoula Aging Services and Meals on Wheels and this proclamation relates to that. [Commissioner Strohmaier read the proclamation proclaiming the month of March, 2017, as March for Meals Month.]

**Rob Edwards, Community Engagement Director, Missoula Aging Services** – We would like to thank the commissioners for coming out and joining us this morning for Community Champions Day, it was a very good turnout. We delivered about 250 meals today and will deliver about 650 tomorrow, all with the volunteer drivers. We would like to thank the commissioners for their support and continuing support, not only for the elder delivery but as well for the underage which is a very important part of our program. Thank you.

**Commissioner Curtiss** – Thanks Rob. Alright, well thank you for coming and thanks for the great work that you do to help folks be able to stay in their home, have nutritious meals and also have a friendly face that checks on them. And we are not insulted if you go back to work.

**4. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

**5. CURRENT CLAIMS LIST**

Claims received as of February 21, 2017 to March 3, 2017 by the Commissioners' Office total \$1,622,584.35.

**Commissioner Curtiss** – Today we have a hearing on the Missoula County Zoning Regulations so I will open the hearing and ask for a staff report.

**6. HEARINGS**

**a. Missoula County Zoning Regulations**

**Jennie Dixon, Planner, Community and Planning Services** – My team partner on this project is Jamie Erbacher, Planner at Community and Planning Services. We first of all want to thank the commissioners for supporting this project as we've moved through the process as well as all of the input and valuable participation from the public and different partners out in the community that have helped us get to this point. We are going to do an adaptation of our slide show that we have shown throughout the last few months. It is a little bit different, particularly at the end where we are going to have motions, should you decide to move forward with this proposal that you can read directly from the screen that will help you move through each, there are nine different motions. But first what I want to do is go through what the proposal is for Housekeeping Amendments and then we also have a proposal for Capital Changes that we have been presenting through the last few months. And then talk a little bit about the process of how we got here and then answer any specific questions about the proposal that we have. So, let me get started.

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As you probably know we are at the beginning of a multi-year process. We are in the first step of what we think will be a three or four step process to change the county zoning. Our goal in this first step was to take us from a place that was really challenging, our regulations were really difficult to work with, and the Housekeeping Amendments reflect getting our base regulations up to a point that was functional and legal. Those Housekeeping Amendments, how we have presented those or described them, is that zoning regulations should be easy to read and understand and the public should be able to rely on them to be complete and accurate. One of the ways that we've tried to accomplish this is to incorporate all of the legislative changes, county policy, attorney opinion, case law, and then we also worked in consistency with other departmental regulations and even consistency in our own document to come up with this booklet here. This is your thicker Housekeeping draft. That's one piece of this; the other are capital changes. When we looked at doing this we thought, well this is going to really help the public and us, but it might not have the most obvious impacts to the public so we sat down and decided what we thought might be six of the most, well what we described here as having the greatest beneficial impact on the greatest number of people. Those six changes that we thought would just be fantastic for the community that we have called Capital Changes and they encompass:

1. Shifting to pyramidal zoning.
2. Revising our home occupations standards.
3. Revising accessory structure standards.
4. Revising the definition of building height.
5. Revising our hillside regulations.
6. Incorporating regulations for condos and townhomes.

I am going to give you about a two or three sentence summary of each one before I move on. So, shifting to pyramidal zoning, is essentially allowing residential uses in commercial districts, which we don't do that right now, and allowing commercial uses in industrial districts, which we also don't do right now. We have a map, it's not in the slideshow, but we have presented throughout our presentations that shows very little commercial zoning in the county. So this change is going to open up a lot of opportunity to possibly put commercial in industrial areas. There is one specific area that has a little bit of a nuance to it, which are the TIF (tax increment financing) districts that are required to have industry as a primary use and so the TIF districts, they're in our housekeeping change but they are affected by the pyramidal shift. We have been working with a TIF district manager and owners out in that area to try to create a TIF district standards that will let them take advantage of all of those opportunities but still have a level of review that makes sure that commercial doesn't overtake the TIF district.

The home occupation revisions are simply clarifying some pretty confusing language and ambiguity in those regulations that result in people coming in who want to get started right away on their home-based business and because the regulations can be vague it often requires more time and discussion internally to figure out, does this really need it? How do they need it? And we wanted to expedite that process. So hopefully with the way the regulations are written someone could come into the desk, ask for a home occupation permit and we could issue it right then.

The accessory structure standards, two primary changes that I think will have a big impact, a benefit to the public. Accessory structures are basically sheds, garages that aren't attached to your home, storage buildings that kind of thing. Right now, the cumulative square footage of those buildings cannot exceed the footprint of your home and if your home is small that is a pretty restrictive amount of storage that a lot of people, especially out in the county, want to have. So, we have proposed to change that. Instead of not exceeding the size of your home; not exceeding 30 percent of a person's lot area and it cannot be in the front yard, just to make sure sheds aren't in the front, the required front yard. The other aspect of accessory structures that we wanted change and improve is to not require a zoning compliance permit for accessory structures under 200 square feet which is compatible with what the building division does.

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The definition of building height simply is making it easier to understand. It is very complicated right now and requires determining if you are using an absolute method or a modified method and if you use the modified method you go to some middle point of some kind of roof and a different point on another kind of roof and while all limits are this but they have to be offset by that and so we are just proposing from existing grade to top of building in an envelope. We do have some extra regulations that we kind of filled in, some of those gaps that result from changing the definition, but we have worked with the community and had suggestions by designers, architects in town and made changes based on those comments and have now received a thumbs up from that general community with respect to that definition and how you measure building height so that seems to be well received so far.

Changing the hillside regulations, primarily doing two things, one is to make sure that people know that their lots are not unbuildable if they don't have 2,000 square feet of 25 percent or less, so long as that lot was created before 2001. Sometimes they wonder, you know, 'my lot was created in '74 can I build on it if it is steep?' And the answer to that is yes. But we wanted to make sure that it was clear in the regs. The other piece of the hillside regulations that we wanted to improve is to remove a setback from slopes greater than 25 percent where right now you have to be 40 feet back from a slope greater than 25 percent. And we do intend to take a look at the hillside regulations in more depth in the next few steps of our zoning amendment process. We did get some feedback from the Planning Board that they think that construction on 25 percent slopes might not be a necessary regulation, there may be some ability to allow for construction on steeper slopes, but we told them we were going to be looking at that in the next step.

And then finally, creating zoning development standards for condos and townhomes, so that people could take advantage of the provision in state law to create a condo and townhome developments through an exemption. There has been some concerns about that especially when they see what happens in the city and are worried that the same thing could happen in the county and what we have explained is that actually state law is different in the city than it is in the county. It is not as prevalent in the county because there is a requirement in county that you have to be in a platted subdivision after '73, whereas, in the city that's not the requirement. So, even in adopting zoning to enable the use of this exemption and create townhomes and condos, we are not probably seeing very much of it at all. You go through kind of a flow chart or a, you know, you ask yourself, 'Are you in Missoula County?' Yes. 'Are you in you in a platted subdivision after '73?' Yes. 'Are you zoned?' Yes. And if the answer to all three of those questions is yes then you might be able to do condo/townhome development. There is a lot of factors that might influence it, like sanitation. But if you can't answer yes to any of those questions you still can't do condo and townhome development, but it's not for Missoula County's lack of trying to incorporate this. It is something at the state level that's really setting these parameters. So, we are trying to open that opportunity up and an important thing to note about that is that it does not increase density in any way shape or form. It is simply allowing for a different kind of ownership of the same type of development that you could do under the current zoning. And Jamie reminded me, it is also applicable to commercial and industrial. We do see commercial and industrial condo or even townhome units that people then lease or sell to people who want to do individual businesses maybe in one large building and the Planning Board was very appreciative to see that that was incorporated as well.

As far as the review process, actually I am going to jump back, because I don't think I really finished this. So those are the changes in part one that we have been taking through the process. We have been working on it for about ten months, 11 months and really started intensively presenting this to the public earlier this year. But once we finish with this process, assuming that it moves forward successfully, we want to get started on the second step which is looking at zoning issues in the urban fringe area and then possibly looking at zoning out a little further or at least in areas that you might consider more rural, but that is a little ways off and we've got a few years planned for this so we don't want to rush through it.

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So we did, on this part one process, we sent out for agency comments on Nov. 18. Received those comments and incorporated them into a second draft which we released for public review on Dec. 23. That was out for a few weeks and then MOR (Missoula Organization of Realtors) was kind enough to host a forum where they introduced it to their group and then we started to do a series of about seven different public forums to reach everybody we possibly could think of. We had great participation and as I mentioned earlier, support, and not necessarily supporting the regs so much but just supporting us through the process, it has been really, really wonderful. And then on Feb. 6 after taking all that comment from the forums in Jan. we published a Planning Board draft, gave them about two weeks to review it before their public hearing. Also did a special presentation the meeting before so that they were very well versed in what they were having for hearing. There was no public testimony and they did vote unanimously on all of the motions to recommend approval. There was one change in language and we will go over that in a minute. Then on March 1 we released a draft for your review and that draft that we released for your review incorporated the Planning Board, one Planning Board change, and then we do have a few changes to the TIF district that we have been working on, on an ongoing basis, and we have received a comment today that we've attempted to incorporate into the motion regarding condos and townhomes. And you will see that reflected in the motion that I have up on the slide.

So the changes to the TIF districts standards since they went to Planning Board include pulling definitions out of chapter one and putting them directly in the district so it is not a substantive change really it is just where certain language resides in the document. Allowing commercial uses as conditional uses, instead of a special exception that require Board of Adjustment review and approval, we have been working with TIF district manager and landowners, and agreed that that was an appropriate way to evaluate whether commercial is at the proper scale in the district. That will allow the TIF district manager to look at each one to make sure it is meeting the purpose and intent of the TIF district, that it is subordinate, based on a clearly defined criteria of what subordinate means. And then also we can look review criteria that we normally look at for zoning review. Then for any commercial use that is a conditional use, the TIF district manager will have a final say on whether that fits or not. That is reflected in your BoardSync packet Attachment 9 and that's Section 3.06.P and there is also changes to the definition section and some condition use review criteria. So if you look at Attachment 9 in your BoardSync packet that has all of the changes. We have one change of about seven words that will be in your motion.

We, staff and Planning Board are recommending approval of these changes. As I have mentioned, there are nine motions, and the next slide begins the motions but I won't go there until you feel like you are ready to entertain the motions and take in any public testimony. So, thank you very much for your time.

**Commissioner Curtiss** – Thank you and Jamie for an amazing amount of work. Did you have any questions for staff at this point?

**Commissioner Strohmaier** – No.

**Commissioner Curtiss** – So, this is a public hearing, is there anyone who would like to make comment?

**Charles Edward Abrahamson** – I am a real-estate broker, a commercial industrial broker for the last 40 years and I think this represents an awful lot of work, but also an awful lot of progress. Historically, the issue with having commercial uses in industrial areas was that it required a finding that whatever you were doing was not a self-imposed hardship and there aren't very many self-imposed hardships if you are buying real-estate for a purpose. So, this makes that clear and has a path to solving that. The pyramid zoning I think is appropriate. In fact, now we may all be aware there are some owners who have industrial property who live at them under the exception for watchman and caretakers and so, that's not going to be any bigger issue than it is. But especially the ability to have residential and commercial is probably a big progress. I really have followed this pretty closely and that is an awful lot of work and solved an awful lot of small issues

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that I won't take the time here, but I think it's an excellent example of my tax dollars at work, thank you.

**Commissioner Curtiss** – Thank you, Mr. Abrahamson. Any other comment?

**Deborah Evison-Bell**, Building and Development Manager, Public Works – I do want to thank both Jamie and Jennie for their hard work and dedication on this project. We were contacted early on with this and we appreciate that immensely. We have been able to align building code definitions and our uses and into the zoning regulations so there has been an awful lot of work gone into this and an awful lot of listening and understanding of one another in our processes so, I really want to thank them for all the hard work and dedication that has gone into this. We are fully in support of the actions and amendments that are proposed here before you. There is one slight hiccup in that though and that is, it has to do with state law it's nothing that we can do at this point, but we feel that we would be remiss if we did not at least mention it and hopefully plant the seed for further discussion on this issue as we move forward with more zoning changes and that has to do with the last one Section 6 when it comes to townhomes versus condominiums. Title 70 of state law allows for folks to use an exemption to create townhomes and condominiums. They use those definitions interchangeably in that state statute. However, under Title 50 and in the building code those two things are very different. The construction method between those two is very different. And so, because the building division is not a reviewing agency or part of the process to declare something a condominium or a townhome it makes it kind of hard for us to figure out where these things are coming from. I did contact the Department of Labor and Industry and it is their opinion that when people are trying to convert something that was previously built as like an apartment complex into a townhome or a condominium they should also be applying to the building division for a change of use. Now, the zoning compliance regulations actually do have a change of use section in there. However, the enforcement of that when these things come down the pike for zoning compliance, there is no mechanism for that. So, that is something that we do need to take into consider as these things start to become more readily available. Jennie's statement about not seeing many of them in the county we do have one townhome declaration currently in the county. If it hadn't been brought to our attention it probably not have been approved for building code as a townhome, they were actually, when they were permitted under building permit, came in as apartments. Okay. They had, there were three fourplexes and that means two units on the bottom, two units above it. Well if you read the definition, a townhome has to own the land underneath it all the way to the roof and the ceiling. So, they are not really townhomes, they were never constructed as townhomes, townhomes require firewall separation and a plethora of other things. They can't have utilities and common walls and stuff like that. So, in the constructed world there is a vast difference between the two. The process and state mechanism for allowing those to happen is interchangeable under Title 70 but does not take that into consideration as we move forward. And to give you clarity on that, Steve Hutchins prepared a document on that.

**Commissioner Curtiss** – So, I am sure the legislature would fix that in about two about minutes, right? They are the ones who made the mess in the first place.

**Deborah Evison-Bell** – Yes, well there is Senate Bill 360 that is currently out there and is making its way through the floor, so we are aware of it.

**Commissioner Curtiss** – So, Senate Bill 360 is trying to address it?

**Deborah Evison-Bell** – Or, 306, sorry, 306.

**Commissioner Curtiss** – 306 is trying to address it?

**Deborah Evison-Bell** – It's looking at some clarity in the issue. We were asked to provide some comment on that and we will see where it lands. But they have been made aware of the issue and the last week in March is our building codes conference in Bozeman put on by the Department of

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Labor and Industry and they are aware of the issue and will be discussing it there too. So, we just have a mismatch of definitions and regulations and construction method as well at this point.

**Jennie Dixon** – Deb, could I add a little bit of knowledge and understanding of what you are trying to say from a little bit of a different perspective? Because I struggled immensely with this issue, being in architecture school, a land use planner, a townhome is a certain kind of building type. It's got shared wall. I mean as building division defines it. But unfortunately state law has now called something else, a townhome, and that's where we've just, for the longest time I said, "Jamie, you are explaining this to people because I don't get it." But I have sort of started to understand it and what the city has actually done and we've done it somewhat not unintentionally, but haven't really explained it this way, that the city has created TED (townhome exemption development) standards as well and they call them townhome standards as different from townhouse because they are making that exact same clarification that a townhouse is a building type. Townhome is kind of this ownership thing that the state has crafted. And so we are trying to create townhome standards for buildings that aren't actually townhouses and we struggle with it but we are trying to make those, and I think that one of the changes that we have in our motion might help to address the concern you brought up today, but maybe not entirely.

**Deborah Evison-Bell** – We understand that we are tied by state law and there isn't a whole lot that we can do to do correct the issue at the local level but we just want to make you aware of it and as we do see these things come through we will definitely be trying to do our best to make sure that everyone is following the adopted state codes that apply throughout the jurisdiction.

**Commissioner Curtiss** – Okay, thank you for putting it on the record. Other public comment?

**Christine Brick**, Clark Fork Coalition – I am representing membership of the Clark Fork Coalition and specifically representing boaters, people who fish, recreate on our rivers. I appreciate the huge amount of effort that has gone into this and I just have one issue and that's with the hillside revisions. That is eliminating the 40 foot setback from the top of a slope. I think my concern is not necessarily every place where there is no set back from the edge of a slope but in the case where you have a terrace that's adjacent to a river that is well out of the floodplain, but that arguably this would allow people to build right up to the edge of that high terrace above the river and there would be a couple of problems I see that way. One is to the person who builds the house itself; even if it is a high terrace it doesn't mean that it can't be undercut by the river. The other issue is just the purpose of the hillside design standards is to promote designs sensitive to existing vistas and so, you know, the vista from the river is degraded over time if there are, you know, multiple houses built, you know, right there kind of people's faces. So that's really my only I think problem with these revisions and I've been a little bit late to the game so I haven't heard other comments or exactly why it's been done this way. I am wondering if it's possible to change it as it applies to riverside property?

**Commissioner Curtiss** – I am sure staff has had some discussion about this. Do you want to add anything to this part? When you were saying these, I was thinking about the hill back here, not the hill the hill toward the river.

**Jennie Dixon** – Yeah, and so the problem is that we have 25 percent slopes throughout the county not just adjacent to the river. So when we really identified this as a problem were those sites that it just really didn't make any sense to not allow someone to construct near or on let's say, a short drop off that maybe is 25 percent slope, but it might be only two feet tall, for example, and it might be in the middle of a basically flat terrain and so we did get comments from a variety of individuals about the issue of, well if you remove this requirement then people will be able to build closer to the river. And some of our thought process as we've thought about it is, not all rivers have slopes adjacent to them 25 percent or greater. And we would be looking at a case by case, along the river; a case by case, how steep is your slope? If you are 24 percent, no problem, go as close as you want. If you are 25 in one spot, but you're not 25 in another, in a three dimensional world it is really hard to set back from a 25 percent slope. And then we also looked at

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how our river water courses protected from impacts to view sheds. The factors that we came up with and considered would be if there were floodplain regulations which if you are on a high terrace it would probably not come into play, but if you are on a lower one, floodplain regulations, building code addresses constructing on or near slopes of instability and then we have 310 permits that any property that has construction that impacts water ways the conservation district reviews, issues a permit and will often require, and I called them and they said that it is usually about a 50 foot set back, which is more than the 40. So, I thought, well that's another good protection. But I can't personally guarantee that every view shed from every water course will be protected and what you are really talking about, I think, is that this would be a setback from water courses to protect views?

**Christine Brick** – Well, I guess what I am thinking is the setback from the edge of a high terrace.

**Jennie Dixon** – That's a water course, right, that has water in it?

**Christine Brick** – But to protect, yeah, yeah right.

**Jennie Dixon** – So, set back from the edge of a water course a certain distance. So it's not really

**Christine Brick** – A high terrace above the water course.

**Jennie Dixon** – So, it's not really, so you're not, so it's not really, you're trying to set back from a slope, you are setting back from the river, is what you are looking for.

**Christine Brick** – Well, you are setting back from the slope too.

**Jennie Dixon** – Assuming there is a slope.

**Christine Brick** – Yeah, high terrace is by definition a slope.

**Jennie Dixon** – Right, but I guess there could be also water courses that aren't 25 percent. They could be, and the terminology could be what is confusing to a technocrat, slope is 25 percent or greater. And so, you could have let's say, a ten percent slope adjacent to a river that you don't have to be 40 feet back from.

**Christine Brick** – As long as you are out of the floodplain, right?

**Jennie Dixon** – Yeah, right. So, I think, what you are advocating for is not so much a set back from slopes greater than 25 percent, but set back from water courses regardless of the slope adjacent to the water course.

**Christine Brick** – Well, yeah, actually what I think what I am thinking about is that the specific condition, and it is a limited set within this of a setback from, you know, you have a high terrace up here and then you have significant slope that goes down to the river, and I am just thinking of where the river actually happens to be up against that bank. I mean that is the bank of the river and often it is steep, but the house is out of the floodplain because they are high enough, but they could be right on that edge. And so that's really the somewhat narrow condition within this that I would be most concerned about and I don't know if there are other parts of building code that would address that.

**Jennie Dixon** – I think the 310 permit is what addresses that.

**Christine Brick** – Yeah, to some extent.

**Commissioner Curtiss** – Jennie, could you clarify when a 310 would be required?

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**Jennie Dixon** – I called Jen, over at the Conservation District, and she indicated, and I said, you know, is it if the building is impacting the water course? She said, no if it's, and I said, is it if the property is adjacent to the water course? I said no, it may not even be adjacent, but if it has any kind of impact. So they have a pretty broad scope, it seemed like. They'll look at any kind of construction that might impact a water course, even downstream and so I felt pretty comfortable with 310 permits being able to require setbacks from water courses.

**Commissioner Strohmaier** – So, would that include impacts, visual impacts, what sort of impacts can be taken into account?

**Jennie Dixon** – Yes, cause I called Jen on this, this came up at one of our public forums and after that I did call and ask that specific issue about the visual impacts, and I think it was, I asked if it was, the way I approached the question was, are you talking about you can only keep setbacks from riparian areas? And she said, no, it's not just riparian there are all kinds of things they look at, including visual impacts. How that gets implemented I am not really privy to, I don't know that much about it, but tried to do some follow-up. And also, in the next step, we do want to look at possible setbacks from water courses regardless of how steep the slope is next to them. In this set of changes that we have before you today we do have setbacks for buildings, houses, ag from water courses. That's a public health and safety issue to look more at the view shed impacts we were wanting to look at that in the next step. Not to discount it all and it's important, but I think we felt we addressed it to our satisfaction by calling the Conservation District.

**Commissioner Curtiss** – So which section has those setbacks for the ag?

**Jennie Dixon** – The ag buildings? It's in each district and I can show that to you actually.

**Jamie Erbacher** – So in Capital Change #3, dealing with accessories structures, so that's in your smaller grey book. C-5 deals with accessory structures, housing and raising livestock and those setbacks.

**Commissioner Curtiss** – Okay. So, I think the good news is, thanks for bringing this to our attention, but I think the good news is that this is our first step and we are done with this and we have time to make them better if there are ways to do that.

**Christine Brick** – Yeah, I appreciate that. Thank you for considering our comments.

**Commissioner Curtiss** – Yeah, thank you.

**Jamie Erbacher** – Just one additional thought and comment on that too. Is that this regulation right now is in the hillside section and so when people think of a hillside property, you think of, you know, your traditional hillside property not a flat property that then is adjacent to the river where that slope may occur. So that's also difficult for implementation of the regulations and if somebody buys a property not assuming that it's hillside, why would they ever go to the hillside regulations for that? So I understand what Christine was saying but I think it's not in the correct place.

**Commissioner Curtiss** – Okay, cause I think the other one thing that you brought up when you were giving us a briefing was that somebody could have piece of property that has kind of a flat spot and then a little bit of a hill and then it's flat again and these regulations kick in because there's not 2,000 contiguous space, right?

**Jamie Erbacher** – Just because it was adjacent to that slope that may be over 25 percent.

**Commissioner Curtiss** – Right, okay. Alright, any other comments on the proposed changes?

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**Sam Sills**, Missoula Organization of Realtors – I am here today to speak in support of the amendments that have been proposed that are known as the Housekeeping Amendments and Capital Changes. We did give them a pretty close review and certainly consulted with some of our colleagues in the development community to vet these out. The changes I think are fairly minor in nature if we are talking about the Housekeeping Amendments, but I do believe that they will lead to a more predictable process for zoning compliance and a more user friendly document which is great and we are always happy to see the county consider doing. In terms of the Capital Changes, I think Jennie did a really good job of explaining those so I am not going to talk to them too much, but we think in general they will give developers greater flexibility and probably incrementally increase opportunities to build a more attainably priced housing in the county which is great as you know. The affordability issue is something that continues to be a problem. I would mention that on March 30 at 10:00 a.m. at the DoubleTree Hotel we will be releasing the new housing report that has all of the 2016 market data. Folks from the county are of course invited to attend that as are members of the public. So we will hope to have you in attendance for that. Lastly, I would really like to thank Jennie and Jamie for all the hard work they put into this. We appreciated being involved fairly early on in the process, having the workshop that we did, I know folks in the development community and certainly people in our membership found that to be helpful. So, thank you for the good work on this. We are very happy to be able to support and to be on the same side of the fence, so to speak, as CAPS (Community and Planning Services) and as the county. Thanks.

**Commissioner Curtiss** – Thanks, Sam. Any other public comments?

**Chris Johnson**, Attorney, Worden Thane – I am not here on behalf of any particular client, but I did want to address the issue of townhomes that was brought up and to speak to what Ms. Bell has addressed. There's a couple of things that I hope might be helpful associated with this. One is the city distinction between townhome and townhouse is not very helpful in part because state law under the Unit Ownership Act uses interchangeably townhome and townhouse and I would suggest to you, and I suggested it to the city too, that for your distinction as these, under a particular ownership scheme, you simply refer to them as townhomes or townhouses under the Unit Ownership Act. I mean it's that simple. It's a townhome or townhouse interchangeable under the Montana Unit Ownership Act and that's the distinguishing feature that I think that's associated with this. It's more words, but I think it's more precise. I appreciated what the city was trying to do by making that distinction; unfortunately they kind of ran afoul of the definitions that are contained in state law. The other thing that I'd wish to emphasize and I have talked to Deb about this before on other projects, when it comes to building review and building permitting. If the building code calls something a duck and has a definition of what a duck is, you bet they need to review that and the project is proposed as a duck they need to review that using duck standards. The thing I want to emphasize, so the building code or in particular the International Residential Code has a definition of what a townhome is. That's all well and good and if the proposal looks like that then it should be reviewed as such, if it looks like something else, if it looks like a duck instead it should be reviewed as a duck. But how those things are treated or later developed or subsequently conveyed is a scheme of ownership under the Montana Unit Ownership Act and I keep emphasizing that. The Condo Statute which is, you know, commonly referred to for years as the Condo Statute, it is the Montana Unit Ownership Act. So the form of ownership really shouldn't have, you know, much impact on this if at all. I had the exact opposite which Deb might appreciate, experience with the city early on we had proposals in with the building permitting and just trying to be up front with the whole process saying, these are eventually going to be townhomes, they are eventually going to be declared under the Unit Ownership Act and had some proposals and they said well, 'Okay, you are calling them townhomes, they should be reviewed as townhomes.' It is kind of the opposite of this. It is like, no, no, no whatever that building is, you know, whatever it is, if it is a duck you should review this as a duck. The fact that we are calling it something under an ownership scheme or plan, you know, it should be irrelevant to how they review. They should, you know, they should review those according to what the building code says. I mean, it's that simple. So, I would urge you to not let this end up being, you know, a source of confusion under this because the ownership is different. It's not like anyone is trying to duck

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any review or any review standards do this, I mean it's just trying to be clear on this and not get afoul in the process. The other thing of course that is my preference is if a building permit application goes in and the county or city and the eventual end goal is to condoize or townhomize these under the Unit Ownership Act I would just be upfront with the governing body about what the eventual plan is with. If they end up with designations that call them condos or townhomes I just don't want to freak anybody out. The potential to convert them later is to build them, construct them, to convert them later is always there, we would just rather be upfront or I would advise my clients to be upfront about what the overall scope of the project is going to be.

The final issue is just a little bit of a warning thing that's come up relative to sanitation review and it's hopefully being fixed by this legislative session, and it's not been an issue in the county, but we did have it as an issue in the city and it's been some hoops that have jumped through this process dealing with DEQ (Department of Environmental Quality). One of the things that has been a source of frustration is somewhere along the line DEQ reinterpreted their statutes and somehow concluded that availing yourself under the Unit Ownership Act was a division of the land which it is and therefore required a different level of review associated with the sanitation review. Essentially they were requiring full certificate of subdivision approval review for these projects. Even though they are hooked and connected to municipal sewer and water. So, it ended up being an expense associated with all of these projects and like I said, it's going to get fixed and I have been talking to DEQ and its all been a little unfortunate. But what it has pointed out, but one of the ironies associated with it is you could build a duplex on a lot, conforms with zoning, perfectly legal, one owner, leases them out, no COSA (Certificate of Subdivision Approval) review. You divide those under the Unit Ownership Act and all of a sudden you are looking at a separate sanitation review. Same building, same number of occupants, same number of toilets, same facilities and one requires a \$3,000-\$5,000 COSA review and the other one doesn't and it is one of those things that is always a source of frustration. I am not sure how requiring this review is furthering public health, safety and welfare, especially considering they are all plumbed on municipal sewer and water. The thing that you guys may see down the road is projects that may have, under the Unit Ownership Act, that may have septic or wells associated with them and I think there is no question in everybody's mind that those need to go through full COSA review to do that. Matter of fact, I had a project that was plumbed a sewer, but was planning on using wells and I still told the client you are going to have to go through COSA review, anytime you are using a non-municipal facility it is going to be a requirement so the protections are there. Anyway, just a cautionary note just to not get hung up on the nomenclature associated with an ownership scheme and to not let it cloud other important stuff that needs to be done. Thank you.

**Commissioner Curtiss** – So, it sounds to me like the issue really happens when, and I can't remember all the details of this piece of legislation, but it sounds like the issue is really when somebody uses this exemption and then converts things. Is that when the problem comes, when you're hitting building code? So, in other words, I have an apartment building that I am now going to call either townhomes or condos and so things weren't built like a townhome or condo, but now they are going to be called that. Is that when the issue kicks in?

**Chris Johnson** – Well, that's potentially one of the issues and that's what Deb referred to when she said the Department of Labor has a take on this. My confusion with that is, if that building is perfectly legal to house human beings as an apartment building, why does that subsequent conversion make it any less safe, any less legal? And again, I have a fundamental question about how public health, safety and welfare is further associated with this. One of the, the sanitation review example I gave you, is because well, one when the statute was enacted when townhomes weren't jammed in on that it wasn't terribly artfully done. I guess is a nice way to put it. And there was a consensus even from DEQ early on that maybe they should have been given an exemption if they are municipal sewer and water and it just kind of somehow fell through the cracks. But, again, it's this concept that this division or allowing owner occupied, I don't see why that necessarily triggers a whole different level of review and it's the same potentially with building code and it also holds true the issue that I have had with sanitation review. Not required with this circumstance as soon as we call them two units, owner occupied all of a sudden it requires COSA

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review. I mean there is just not a compelling reason in my mind for that additional cost and expense that's associated it. I can't speak as to the details of building code, does that make sense? But it just seems to me that that is an issue. Why is it safe for tenants, apartment dwellers, and not safe for owner occupied?

**Commissioner Strohmaier** – Yeah, question for either Jennie or maybe John even. I guess what do you think as far as Mr. Johnson's suggestion as far as language related to the specifically Montana Unit Ownership Act? Is that reference already in there and I missed it?

**Jamie Erbacher** – Yeah, so if you look at page, well Capital Change #6, that first page, we have a definition of what a condo/townhome exemption development is. Right now we are specifically, or in this packet, we have specifically referenced MCA 70.23.102.5 and 14 which is the definition of townhome and condo under the Unit Ownership Act. As part of Public Works comments today, they suggested that we just reference the entire section of the Unit Ownership Act in this definition and so, as part of our revised motion that we have included we are recommending to just reference the entire Unit Ownership Act.

**Jennie Dixon** – So, we think that's how this might be addressed, but actually Chris when you were saying, "townhomes under Unit Ownership Act" meaning that they aren't what we typically think of townhomes as a building type, they are an ownership type.

**Chris Johnson** – Right, and not only a building type, but they are also townhome subdivisions, common wall, where the units are subdivided through the platting process and they are designed to have common wall.

**Jennie Dixon** – Down the common wall, but the townhome...

**Chris Johnson** – Right, it's awkward.

**Jennie Dixon** – It is.

**Chris Johnson** – I talk to clients and I say, well those are townhome townhomes and these other ones are townhomes under the Unit Ownership Act. So it's unfortunate.

**Jennie Dixon** – Okay, that helps because that is how I have been trying to think about it, but to hear someone else say it out loud confirms that. And it is so confusing.

**Chris Johnson** – It is.

**Jennie Dixon** – But thank you, so much to you and Deb for your input on this.

**Chris Johnson** – Well, and some of this goes right back to the initial addition of townhomes into the Unit Ownership Act could have been maybe done more artfully. But it served a need. I think the thing I would also mention to you very quickly, is that after the fundamental need or reason for this, after the economic collapse of '08, lender underwriting standard for residential condominiums became almost impossible to get a bank loan on it. And the banks have been very willing to recognize townhomes as a different creature. They are reviewed under another ownership structure, or another underwriting structure, not the restrictive condominium underwriting structure. And it's made these things possible and made loans available for people to get financing and it's been a very useful tool in the city for the development of affordable entry level housing.

**Jennie Dixon** – But the thing that also kind of astounds me and maybe I am not at a level of understanding where you are at yet, is that by creating these zoning standards here today, we are trying to open up that opportunity for citizens to use that condo/townhome exemption and create

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condos and townhomes under the Unit Ownership Act, but because the constraints are what they are in state law we have prepared a map that's up on the screen that will show you if these regulations are adopted, the dark blue areas are those areas, I believe in the entire county, where you can do a condo or townhome. And that just kind of boggled my mind that you cannot do a form of ownership, like a condo or townhome, except in those blue areas, only if we pass the regulations today. If you don't pass the regulations today, there is maybe one or two subdivisions out there total in the whole county where you could do this.

**Chris Johnson** – I've had inquiry from outlying counties on these projects about the use of this exemption and they have been in some smaller rural counties that have no zoning and you are done, I mean it's not even on the table, so.

**Jamie Erbacher** – Yeah, so to clarify this map up above, the yellow area is the area that is zoned and then the dark blue where you can do the condo/townhomes those are zoned areas and land that has been subdivided in compliance with the Subdivision and Platting Act. It does not take into consideration any private covenants or sanitation or anything like that.

**Commissioner Curtiss** – Aren't there a couple of the citizen initiated zonings? Like, I am thinking that one close to Lolo that's blue that was out on the flats. I think that had contemplated condos in its citizen initiated zoning.

**Jamie Erbacher** – In the Ponderosa Heights?

**Commissioner Curtiss** – No, I thought it was down on the flats where the gravel pit was proposed.

**Jennie Dixon** – Oh yeah, Bird Lane?

**Commissioner Curtiss** – Bird Lane; between Bird and Valley View or something.

**Jennie Dixon** – So, if a zoning district contemplated it that's one piece of the puzzle but...

**Commissioner Curtiss** – But it's different than this zoning.

**Jennie Dixon** – It is different, but I think if it was subdivided, after '73, and even with part one zoning I think that could be argued that that is enough of meeting state law's requirement that zoning allows it that they could do it, but there are really very few.

**Deb Evison-Bell** – I just wanted to comment, from the building standpoint, we are very much in support of townhomes coming in. They are affordable alternatives out there. However, under the building code, you have to have three or more attached structures in order to qualify. So, Chris Johnson's example of a duplex coming in and then wanting to townhome it after it's been constructed as a duplex, under our definition you couldn't do it. There are no provisions for that currently under Title 70, so that's one of our angsts is something you want to call a duck, we reviewed as a duck, we approve it as a duck and then later on you try to convert a duck into a pigeon. It just doesn't work. One of the reasons why getting financing on townhomes is easier is because those lending agencies recognize the international building code, the international residential code and so the idea is they are, 'Oh great this is a townhome it's been constructed to meet the townhome requirements, we can finance it because it is recognized using that definition.' So they do rely on one another and those definitions do rely on your building department to make sure that they are actually in accommodation and in accordance with what is required.

**Commissioner Curtiss** – It sounds like that would, in a lot of ways be because of fire standards?

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**Deb Evison-Bell** – That's correct. One of the big issues between the two is the, when you have that shared wall you have to have, number one they have to be independent of one another as far as utilities that are in that common wall and they do have to have a fire wall that goes all the way from the foundation all the way to the sheeting in the roof. So, it's not just to the rafters, it's all the way to the shingles at the very top. The idea is that if one unit catches fire it won't spread to the next unit. Whereas, condos and apartments they are all constructed the same. And so those when you are trying to convert like a multi-story complex into a condominium that's a little easier, that's an easier pill to swallow because the construction types are really interchangeable there.

**Commissioner Curtiss** – But in reality it sounds to me like if you had a duplex that was now being converted to a townhome, building codes wouldn't have any say because all it is it is going to get changed in some legal description somewhere.

**Deb Evison-Bell** – That's correct, it is on paper.

**Commissioner Curtiss** – And it's for financing.

**Deborah Evison-Bell** – Correct, it's on paper.

**Commissioner Curtiss** – So it isn't going to conflict with you because you aren't going to be asked to look at it.

**Deborah Evison-Bell** – That's correct. Although, according to the Department Labor and Industry we are supposed to be getting, when those things happen, they should also be applying for a change of use which would then allow us to look at it.

**Commissioner Curtiss** – So we look at things that are changing use? Well, we do I know if it is an ag building.

**Deborah Evison-Bell** – Yep and we look at it even well, a good example of that would be the Bonner Mill site. Every one of those businesses that have gone in there they have had to come in and apply for change of use. We look at...

From audience – Which place were you talking about?

**Deborah Evison-Bell** – The Bonner Mill site. So each one of those businesses that have gone in there they have had to apply to us for a building permit to see the use that is going to go in there. Is there a certain construction type and method they need to meet in order for that to go in there? So you are taking something that was once an F occupancy and turning it into a B occupancy or an S occupancy. They have different rules and requirements for sprinklers and firewall separation and things like that. So every time a business goes out and a new business comes in, if it is a like per like there is no problem, but if it's say was once a dog grooming facility and now they want to manufacture ammunition in there it is completely different.

**John Hart** – Can I ask a question of Deb? Deb, so let's say that the building division has reviewed a something that is a duplex, it's a duck, it is duplex and then subsequently it is converted to condominiums, does the financial institution or some sort insurance underwriter ever contact the building division to verify how it was originally inspected and permitted?

**Deb Evison-Bell** – I can answer that. The answer to that is yes. We are getting more and more calls on that because of the financial crisis we are getting more and more calls for certificates of occupancies on single family dwelling units. We are getting more and more questions about making sure that permits were obtained, everything was finale and complete. So we do get those calls and I haven't had one yet that has come through on the townhome question, but I did have one on a condominium that was converted.

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**John Hart** – Thank you.

**Jennie Dixon** – I think it is important to note and I have had to let this sink in that a townhome can be a single family dwelling, under the Unit Ownership Act.

**Jamie Erbacher** – And it can be commercial and industrial, too.

**Commissioner Curtiss** – Right, and we have some of those in Bonner.

**Jamie Erbacher** – And the exemption it's specifically, 76.3.203, specifically refers to the condo and townhome as defined under the Unit Ownership Act. So again it's back to that definition of ownership and not so much the building code definition.

**Commissioner Curtiss** – Okay, back to the fact that all we are talking about here is zoning and trying to meet the definition as described in law even though it sounds like there are some unintended consequences. Are there any other comments on the proposed changes? Okay, seeing none, I will close the hearing and we will move to motions.

**Jennie Dixon** – So I could, if you like, kind of just give you a one or two sentence preface to each motion. The first motion is the motion that Planning Board recommended to revise the definition of agriculture and if you have this book you will see the draft that went to Planning Board and it would be easy to explain it; you have the green Housekeeping book and it's on page 11 on the top, the definition of agriculture. The Planning Board did not like the fact that we struck certain types of uses that we said are specifically excluded as agriculture and those include gardening for personal use, keeping of house pets and landscaping for aesthetic purposes. And they also wanted to remove intensive agriculture even though it's already a commercial processing type of ag. So their motion was to not accept any of the blue changes at the top of page 11, except they wanted to keep in clarifying kenneling and boarding of animals. So because that was so complicated to explain it in a succinct motion we said, you know change the definition of ag by replacing the blue with this and that and that ultimately this below is what the definition should look like. I don't know if you necessarily need to read that into the record or if Sarah can just incorporate it into the record, but that's where that motion came from.

**Commissioner Curtiss** – So just to clarify on page 11, the things that are blue with strikeout were things staff was proposing to take out, but Planning Board wants them back in.

**Jennie Dixon** – Right.

**Commissioner Curtiss** – And then the intensive agriculture they wanted to include...

**Jennie Dixon** – Remove.

**Commissioner Curtiss** – Oh, they want to remove.

**Jennie Dixon** – And that's actually one I think is good to keep in there, but it's not the end of the world if it comes out is that these changes are really clarifying that as we have heard for a number of years, ag opportunity. They want to see it increase opportunity for ag. So we haven't created an opportunity we have just clarified that that opportunity exists, but that opportunity for ag does not mean you can put a dairy or a feed lot next to your house. Because that's intensive ag and intensive ag is different than other ag and that's what, by leaving it in here you are clarifying that intensive ag is not the same as just general agricultural. And another thing I can tell you is that in the next step in urban standards we are going to refine this even further even better. So if you want to go with just how Planning Board recommended it I think it is fine as well.

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**Commissioner Strohmaier** – So Jamie or Jennie what was the rationale in originally striking out gardening for personal use?

**Jennie Dixon** – You know I told Planning Board that I recall getting this as an agency comment back in Dec. and I'm pretty sure it was based on a conversation that you (Deborah Evison-Bell) and I had and I have been trying to reach you for several weeks, do you remember if you might have suggested striking those out?

**Deborah Evison-Bell** – Yes, I think did come from us and it actually had to do more with the IRS (Internal Revenue Services) definition of agriculture versus hobby farm and it also had to do with our own agricultural exemption from building codes and that state adopted language. So, in your hobby farm, if you produce less than x amount of dollars per year under the IRS if you produce more than that then you are commercial agriculture and they have exclusions and exemptions in there and one of them is you are a hobby farm if you are growing tomatoes just for yourself and gardening and doing marigolds and stuff.

**Commissioner Curtiss** – So, in some ways it was just say that anybody can grow a garden for their personal and keep their house pets and plant their plants to make it look pretty so we didn't need to put it in here is kind of the rationale why we didn't propose it?

**Deborah Evison-Bell** – That's correct and if you are keeping a kitchen garden and that's how the other definitions are in alignment.

**Commissioner Curtiss** – But Planning Board wanted it in here?

**Commissioner Strohmaier** – Well, I am reading it as...

**Jennie Dixon** – It's an exclusion.

**Commissioner Strohmaier** – Yeah, it's an exclusion so the way I'm understanding this originally by striking it out it would include gardening for personal use as part of the definition of agriculture. Am I misreading that?

**Jennie Dixon** – No, you are not and so I have really struggled with this because our goal, when we drafted this original definition of agriculture, was to use the exact same definition that you just adopted for subdivision exemptions and for the most part that's the case. And then in talking with Deb and I felt terrible at Planning Board because I really could not with all of these changes this one just left me. My brain does not retain why I did this, it was based on comment with Deb and you are right it is an exclusion of what is ag and so that's why when Planning Board decided to strike it, or I am sorry, keep it that makes sense to me as well because it's an exclusion of what ag is.

**Commissioner Strohmaier** – Yeah, I mean it makes total sense excluding from the definition of ag gardening for personal use or keeping of house pets. So I am fine with the language as is proposed.

**Jennie Dixon** – Yeah, so following Planning Board's recommendation?

**Commissioner Strohmaier** – Correct.

**Jennie Dixon** – So that would be your motion number one.

**Commissioner Curtiss** – The one on the screen and that also includes that intensive that we could change later if we decide we should?

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**Jennie Dixon** – Yeah, if you want to keep intensive agriculture in there simply, you’ve got your motion, proposed edits made in blue with the exception of replacing and with or, boarding of animals and intensive agriculture. Those are exceptions that you would not remove per the Planning Board recommendation. And I can help you with the wording, Dave, if you need me to.

**Commissioner Strohmaier** – So, come again with that as far as the intensive agriculture bit.

**Jennie Dixon** – Okay. So, in C-A.1 zoning district and I believe C-A.2 also listed as permitted use as agriculture and everything that goes with that but listed as a special exception there are a few different things that state law or somebody in this business might consider agricultural but it is what we would consider intensive agriculture and you can’t do it just where you can do agriculture. You have to be a special exception and found to be compatible with other uses in the area by the Board of Adjustment. And those are things like the facilities for processing and storing ag products such as packing plants, canneries, milk plants, warehouses, commercial lumber, wood products manufacturer, saw mills, poll plants, dairies, feed lots, etc., etc. That’s what we would call intensive ag. So the Planning Board said, well why don’t you just define intensive ag? And I said, because I honestly cannot find a definition of intensive ag and I don’t want to define it simply by a list of uses because if I forget one use then what is it? So, it’s kind of that you know it when you see it, what is intensive ag. And that we want to relegate to certain areas with Board of Adjustment review all other ag go for it. So that’s why I like keeping that in there because it clarifies that intensive ag is not the same as general ag. But if you take it out as the Planning Board recommended the next few lines or words right after that that says commercial processing of ag products gets to what I think really still encompasses intensive ag, the feed lots and the dairies and all of that. That’s commercial processing of those that still gives that protection.

**Commissioner Strohmaier** – Okay. Are we ready?

**Commissioner Curtiss** – Yes.

**Commissioner Strohmaier** – Okay. I guess before I make a motion here I just want to say thanks to staff. This is a good piece of work and clearly when we are dealing with regulations that are 40 years old, long overdue. I have heard from folks for quite a while that what they want to see in our regulations, land use regulations or regulations that are internally consistent, easy to understand and that are interpreted uniformly by staff and I think in the Capital Changes and the Housekeeping Changes that are being proposed this is going to get us a long way down the path to achieving those goals. So thanks so much and I look forward to the next several iterations in the months and years to come. So, I will go ahead and kick this off and I am going to stick with the Planning Board recommendation for this.

Commissioner Strohmaier made the motion that that Section 1.04.3, the definition of Agriculture, be amended and approved to reject all of the proposed edits made in blue with the exception of replacing “and” with “or” and “boarding of animals.” [The definition of Agriculture, as amended, would read as follows:

*“The use of land for growing, raising, or marketing of plants or animals to produce food, feed, or fiber commodities. Examples include, but are not limited to, cultivation and tillage of the soil; dairying; the raising of livestock, poultry, bees, fur-bearing animals, or biological control insect; and the growing and harvesting of fruits, vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes. This definition specifically excludes gardening for personal use, keeping of house pets, kenneling/boarding of animals, landscaping for aesthetic purposes, and residential, commercial, and industrial uses, including the commercial processing of agricultural products. This definition is not construed to exclude ancillary or accessory uses or improvements necessary or related to the function of a bona fide agricultural operation.”]*

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And if it's ok, if Sarah's got the rest of the language, I can read the whole following paragraph but if you think you've got that that is the motion.

**Commissioner Curtiss** – So the definition would read as proposed today?

**Commissioner Strohmaier** – Yes.

Commissioner Curtiss seconds the motion.

**Commissioner Curtiss** – Further discussion?

Passed 2-0.

**Commissioner Curtiss** – Okay, number two.

**Jennie Dixon** – Okay, so this is the revision of the TIF districts standards. We did send to Planning Board, in your Housekeeping draft, TIF district standards that after Planning Board we've continued to work with TIF district manager and made some changes. Also, informing the landowners and had a meeting even this week where I think we all came to some level of satisfaction and agreement. So this motion is that the proposed amendments in Attachment 9 of your packet be approved but with a revision to one small section, 3.06 P.3.b., and the small revision is shown in underline. So that first sentence is there as is we just added a few words there shown in underline and then what this is doing is this is this is doing a couple of things. It's taking some of the definitions that we had in chapter one putting them into chapter three, clarifying that TIF manager reviews commercial uses and that they need to be subordinate to primary use of secondary value adding industrial uses and then I think that might be it. And then also adding conditional use review standards for commercial uses in TIF districts, that's your motion.

**Commissioner Curtiss** – And the things that would have normally been special exceptions are now in that conditional use list?

**Jennie Dixon** – Yes.

**Commissioner Curtiss** – Or quite a few of them anyway.

**Jamie Erbacher** – Yeah, just to clarify, so the underline changes in the motion there, that is specifying that the TIF district manager will review only those commercial uses that are proposed as conditional uses.

**Commissioner Curtiss** – Okay. And I was in the meeting with folks who were out on the both the TIF and the TED in the Bonner area and I think that we all came to agree this was a good step.

**Commissioner Strohmaier** – Yeah, I guess that was my question, whether this language would address concerns out in the Bonner development park out there. Okay.

Commissioner Strohmaier made the motion that proposed amendments shown in Attachment 9 of the commissioners' BoardSync packet be approved with a revision to the first sentence in Section 3.06 P.3.b to say, "All applications for a permit for uses listed in Section 6.B.6 and 7.B.8 within a TIF district subject to the provisions of this section (3.06 P.) must receive approval from the Missoula County TIF District Manager or other delegated authority prior to issuance of a Zoning Compliance Permit."

Commissioner Curtiss seconds.

**Commissioner Curtiss** – Further discussion?

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Passed 2-0.

**Jennie Dixon** – Okay, so the third motion is to adopt the proposed Housekeeping amendments with the Planning Board change you just made with the TIF change you just made and with the assumption the Capital Change #1 is adopted in your motion #4 because if it's not then the TIF standards aren't needed, but that's a really procedural...

**Commissioner Curtiss** – Should we do #4 first?

**Jennie Dixon** - #4 is an amendment to the Housekeeping. So I would say do motion number three, and it worked at Planning Board, so I am hopeful it will work here, but that's what this motion is for. It's adopting this with a little bit of getting through it.

**Commissioner Curtiss** – Okay.

Commissioner Strohmaier made the motion that the proposed amendments to the Missoula County Zoning Regulations, as shown in Attachment 4.A "Housekeeping Amendments" be approved, as amended, with the addition of 3.06 P. TIF District standards being contingent on the approval of Motion 4: Capital Change #1 Pyramidal Zoning.

Commissioner Curtiss seconds.

**Commissioner Curtiss** – Further discussion?

Passed 2-0.

**Commissioner Curtiss** – We made it through that one, now number four.

**Jennie Dixon** – This is adopting Capital Change #1 Pyramidal Zoning.

**Commissioner Curtiss** – And that sounded like there is very good support for that today.

Commissioner Strohmaier made the motion that the proposed amendments to the Missoula County Zoning Regulations, as shown in Attachment 4.B "Capital Change #1 Pyramidal Zoning" be approved as an amendment to the Housekeeping Amendments.

Commissioner Curtiss seconds.

**Commissioner Curtiss** – Further discussion?

Passed 2-0.

**Commissioner Curtiss** – Yay, five.

**Jennie Dixon** – This is the Capital Change #2 to improve and streamline our home occupation regulations.

Commissioner Strohmaier made the motion that the proposed amendments to the Missoula County Zoning Regulations, as shown in Attachment 4.C "Capital Change #2 Home Occupation" be approved as an amendment to the Housekeeping Amendments.

Commissioner Curtiss seconds.

**Commissioner Curtiss** – Further discussion?

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Passed 2-0.

**Jennie Dixon** – Okay, motion number six, we are almost there. This is to the Capital Change #3 for accessory structures.

Commissioner Strohmaier made the motion that the proposed amendments to the Missoula County Zoning Regulations, as shown in Attachment 4.D “Capital Change #3 Accessory Structures” be approved as an amendment to the Housekeeping Amendments.

Commissioner Curtiss seconds.

**Commissioner Curtiss** – Further discussion?

Passed 2-0.

**Jennie Dixon** – Your motion seven is Capital Change #4, changing the way we measure building height.

**Commissioner Curtiss** – Although, the other sounded real creative, depended on if it had this kind of roof and...

Commissioner Strohmaier made the motion that the proposed amendments to the Missoula County Zoning Regulations, as shown in Attachment 4.E “Capital Change #4 Building Height” be approved as an amendment to the Housekeeping Amendments.

Commissioner Curtiss seconds.

**Commissioner Curtiss** – Further discussion?

Passed 2-0.

**Jennie Dixon** – This is the changes to the hillside design standards.

**Commissioner Strohmaier** – So, I would just say here that given the conversation that the Planning Board had that, and I think you mentioned it earlier, that this be something that we continue to look at going forward. And also relative to, if we are talking setbacks, relative to Chris Brick’s comments I think it would be worthwhile continuing that conversation and certainly going forward I would like to hear more about the 310 permit process and whether the regulations that will be adopted today can, I guess whether that permitting process can totally mitigate concerns relative to slope and such.

Commissioner Strohmaier made the motion that the proposed amendments to the Missoula County Zoning Regulations, as shown in Attachment 4.F “Capital Change #5 Hillside Design Standards” be approved as an amendment to the Housekeeping Amendments.

Commissioner Curtiss seconds.

**Commissioner Curtiss** – And I agree with you that we, while we are picturing this as hillside without a river in front of it, it could be interpreted that way so I am just glad that we have this in place and then we will have a process to review further if needed.

Passed 2-0.

**Jennie Dixon** – Okay, and your last motion is on Capital Change #6, the C-TED development standards, and so this motion is slightly different from what was in your packet and the

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amendment is to change the definition of C-TED as we have been discussing here as recommend by Public Works and commented on in public testimony to clarify that the...

**Jamie Erbacher** – That essentially the definition is in accordance with the Unit Ownership Act and includes all of the definitions.

**Jennie Dixon** – And so it is removing references to two specific sections you can see struck out there.

**Commissioner Curtiss** – Which means it refers to the whole section.

**Jennie Dixon** – The whole section, yes.

**Jamie Erbacher** – Correct.

**Commissioner Strohmaier** – Okay, and before I make this motion, I would also be remiss not to thank all of the members of the public and other agencies and organizations who participated in the process to get us to where we are today.

Commissioner Strohmaier made the motion that the proposed amendments to the Missoula County Zoning Regulations, as shown in Attachment 4.G "Capital Change #6 C-TED, Condominium and Townhome Exemption Developments" be approved as an amendment to the Housekeeping Amendments, with the following revision to Section 1.05 17. Definition of Condominium and Townhome Exemption Development (C-TED) – "...in accordance with MCA 70-23-102 and 76-3-203.

Commissioner Curtiss seconds.

**Commissioner Curtiss** – And I agree that it's been a, you guys have led a great process the public has been very involved, I think it is good to have on the record here all of the kind of goofy things that can happen when you amend laws and don't think of all things, but in the end really it's, as Mr. Johnson said, people living in houses. It doesn't matter what the ownership method was, hopefully we, because of inspections, we have safe houses.

Passed 2-0.

**Commissioner Curtiss** – Alright, well thank you. Thank you to the public, too, for coming and being involved today. Is there any other business to come before the Commission?

## 7. OTHER BUSINESS

**Commissioner Strohmaier** – Just one announcement and naturally the media already split out of here, but I was just going to mention that next Wed. from 11:00 a.m. to 12:30 p.m. there will be a joint meeting of the Board of County Commissioners and Missoula City Council and some of the things that we will be talking about will include receiving an update on the greater downtown Missoula Master Plan implementation process, we will discuss a little bit about transportation planning west of Reserve Street, and then also talk a little bit about annexation policy. So maybe MOR and others would probably be interested in that. Thank you.

**Charles Edward Abrahamson** – If I might, it didn't occur to me that this might be other business because I have pursued it otherwise, but I spend a lot of time down here for different reasons and there's a real bad habit of locking half of doors. It is against the law and the fire code.

**Commissioner Curtiss** – You mean these doors here?

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**Charles Edward Abrahamson** – Yeah, well, no not as long as you’ve got enough exits. But I am talking about the external doors. You know where one door will be locked and the other one won’t.

**Commissioner Curtiss** – The reason this one is if you tried to come in is they are waxing the floor.

**Charles Edward Abrahamson** – No, no, I am talking about external doors. You are outside and one of them doesn’t open, those are based on a fire code, it is a violation of law to lock those when the building is occupied. I have mentioned it four or five different places and never occurred to me this might be the place to mention it, but when people open and close those doors...and the reason I know that is because as a real estate person I was involved in a couple situations where somebody leaving in an emergency put their hand through the glass and that is strict liability cause you are in violation of a state law and so that ends up costing a lot of money and so it’s not my favorite big item of the year but it’s one that’s easy to charge. All doors for the public are there because the building code required them to be that wide and that accessible and it seems like that would be easy to fix.

**Commissioner Curtiss** – Good. Thanks for the comment and I think that I missed the part on here public comment items not on the agenda so I will do that right now in case, thank you for your comment made. Alright, if there’s no other comments then we are in recess.

## 8. RECESS

**Commissioner Curtiss called the meeting to recess at 3:28 p.m.**

### Friday, March 10, 2017

JC and DS met in regular session; quorum present. NR out of office all day, but participated in Partnership Health Meeting by telephone.

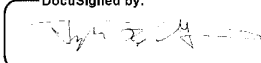
#### Calendar

9:00 a.m. - 9:30 a.m.	DS - Pat O’Herren
9:30 a.m. - 10:30 a.m.	DS – Pat O’Herren, Ellen Leahy, Shannon Therriault – Planning in Rural Communities
10:30 a.m. - 12:00 p.m.	JC - State of the Community Speech Rehearsal
12:00 p.m. – 1:30 p.m.	NR – Partnership Health Center
2:00 p.m. - 3:00 p.m.	DS - Compensation and Classification Discussion

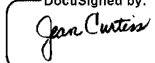
#### Items for Signature

Resolution No. 2017-033 – JC and DS signed, dated March 10, 2017. Approval of notice of intent to amend Missoula County zoning regulations to reflect various housekeeping amendments and capital changes. Initial hearing held at public meeting March 9, 2017. To Jennie Dixon, Community and Planning Services.

#### Journal Approval

DocuSigned by:  
  
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Tyler Gernant  
Clerk & Recorder

DocuSigned by:  
  
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Jean Curtiss, Chair  
BCC

### Monday, March 13, 2017

BCC met in regular session; all three present.

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**Calendar**

8:00 a.m. - 9:00 a.m.	DS - Abbey Huseh
8:30 a.m. - 9:30 a.m.	JC - State of the Community Speech Rehearsal
9:30 a.m. - 11:30 a.m.	BCC - Community and Planning Services Update
11:30 a.m. - 1:30 p.m.	BCC - State of the Community
2:00 p.m. - 2:30 p.m.	NR - Ruth Ann Swaney
3:00 p.m. - 4:00 p.m.	NR - Missoula Aging Services
3:00 p.m. - 4:00 p.m.	DS - County-Community Council Communication

**Items for Signature**

Indemnity Bond – JC signed. Bryan D. Porch, Missoula, MT. Missoula County Public Schools Warrant 27-151393 issued Dec 13, 2016. Amount \$60.00 for services as a referee. Warrant Lost.

Indemnity Bond – JC signed. Bryan D. Porch, Missoula, MT. Missoula County Public Schools Warrant 27-151187 issued Dec 7, 2016. Amount \$60.00 for services as a referee. Warrant Lost.

Monthly Report – JC examined, approved and ordered filed the monthly reconciliation report for Justice Court 1, Judge Marie A. Andersen, and Justice Court 2, Judge Landee N. Holloway, for the month ending Feb. 28, 2017.

**Community and Planning Services Update****Agenda:**

1. Public Comment
2. Communications
3. General Updates
  - a. 9:30 - Swan Ranger District - Rich Kehr
  - b. 10:00 - Bonner Milltown PER, No Action Alternative Cost Analysis - Andrew Hagemeier
  - c. 10:05 - Land Use Strategy Project Update - Andrew Hagemeier & Kate Washington
4. Director's Update Patrick O'Herren
5. Community Council Meeting Schedule - March 9 – March 19, 2017
 

West Valley CC	March 9 @ 6 p.m.
Seeley Lake CC	March 13 @ 6 p.m.
Bonner Milltown CC	March 13 @ 7 p.m.
East Missoula CC	March 13 @ 7 p.m.
Lolo CC	March 14 @ 7 p.m.
Evaro Finley O'Keefe	March 15 @ 7 p.m.

**Tuesday, March 14, 2017**

BCC met in regular session; all three present. DS to Helena 12:00 p.m. – 5:00 p.m.

**Calendar**

8:00 a.m. - 9:00 a.m.	DS - Steve Adler
9:00 a.m. - 10:00 a.m.	BCC - Senior Staff Update
10:03 a.m. - 11:07 a.m.	BCC - Commissioners' Administrative Public Meeting
11:00 a.m. - 12:00 p.m.	BCC - Pat O'Herren and John Hart
12:00 p.m. - 5:00 p.m.	DS – Helena

**Items for Signature**

Employee Benefits Claims - BCC signed on signature page for Employee Benefits Manual Check Claims dated March 9, 2017 Amount \$172,210.66. To Barbara Berens, Auditor's Office.

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Letter No. 2017-084 - BCC signed. Dated March 14, 2017 to thank Jeri Delys for applying to serve on the Fair Events Committee although someone else was appointed.

**Administrative Meeting**

**BOARD OF COUNTY COMMISSIONERS  
ADMINISTRATIVE PUBLIC MEETING MINUTES  
MISSOULA COUNTY ADMINISTRATION BUILDING, 199 WEST PINE STREET, ADMIN ROOM 206  
March 14, 2017 Start 10:03 a.m. - End 11:07 a.m.**

**ATTENDANCE**

**Present:** Jean Curtiss, Nicole Rowley, David Strohmaier, Vickie Zeier, Anne Hughes, Annie Cathey, Katie Klietz, Erica Grinde, Chris Lounsbury, Barbara Berens, Bernadette Roy, Andrew Czorny, Rebecca Connors, John Hart

**Other Attendees:** Sarah Bell, Nicole Rush

**I. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA None****II. ACTION ITEMS****1. Request board approve budget transfers as follows:**

(1) \$25,000 from risk permanent salaries (vacancy savings) to risk contracted services to cover costs of PayneWest services under professional services agreement dated 8/25/16;

(2) \$1,750 from risk permanent salaries (vacancy savings) to risk office supplies to purchase desk and computer for third floor office;

(3) \$2,000 from benefits books & subscriptions to benefits office supplies to purchase office equipment for second floor office and purchase computer for first floor meeting room.

**Presenter:** Erica Grinde  
**Moved:** Nicole Rowley  
**Second:** David Strohmaier  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:**

Original to Teresa Graham, Financial Services and copy to Erica Grinde, Risk and Benefits.

**2. Request board approve appointment of Erica Grinde to replace Hal Luttschwager as Missoula County's representative to States Risk Retention Group, Missoula County's excess insurance carrier.**

**Presenter:** Erica Grinde  
**Moved:** David Strohmaier  
**Second:** Nicole Rowley  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:**

Letter No. 2017-075 to Sheryl Sattler of Berkley Risk to appoint Erica Grinde, Risk Manager as Missoula County's representative to States Risk Retention Group. Original to Erica Grinde, Risk and Benefits.

**3. Request board approve amendment to participating provider agreement to add the language regarding general provisions that the participating provider understands and agrees that it must execute an additional addendum to this agreement in order to participate in the Blue Cross Blue Shield of Montana (BCBSMT) Blue Options Health Maintenance Organization (HMO) Point of Service Network.**

**Presenter:** Bernadette Roy  
**Moved:** Nicole Rowley  
**Second:** David Strohmaier  
**Motion:** Motion passed as written

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**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:**

Filed with the Clerk and Recorder/Treasurer's Office. Original to Lindsey Cromwell, Partnership Health Center (PHC).

**4. Request board approve chair to sign contract between Department of Public Health and Human Services and Partnership Health Center for the delivery of medical case management services and to provide assistance with uncovered outpatient medical and dental office visit insurance co-pays and support services to meet the needs of HIV-infected individuals and their families for the total reimbursement in the amount of \$157,000.**

**Presenter:** Bernadette Roy  
**Moved:** David Strohmaier  
**Second:** Nicole Rowley  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:**

Original to Lindsey Cromwell, PHC.

**5. Request board approve contract and management plan between Missoula County, MEP and OnXmaps for the Big Sky Economic Development Trust Fund BSTF Category I Job Creation Grant that awarded to Missoula County as of November 16, 2016.**

**Presenter:** Nicole Rush  
**Moved:** Nicole Rowley  
**Second:** David Strohmaier  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:** Grant funds of up to \$187,500 to assist in creation of 25 new jobs.

Filed with the Clerk and Recorder/Treasurer's Office. Original to Nicole Rush, Missoula Economic Partnership (MEP).

**6. Request board approve budget amendment for Big Sky Economic Development Trust Fund BSTF Category I Job Creation Grant awarded to Missoula County as of November 16, 2016 for OnXmaps. The County must pass a resolution approving the changes to the FY 17 budget. All BSTF funds pass through Missoula County and have no net effect on the County's budget.**

**Presenter:** Nicole Rush  
**Moved:** David Strohmaier  
**Second:** Nicole Rowley  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:** \$172,500 Contracted Services Grant funds to OnXmaps; \$15,000 Trustee fees paid to MEP as administrator.

Resolution 2017-034. Filed with the Clerk and Recorder/Treasurer's Office. Original to Teresa Graham, Financial Services. Copy to Nicole Rush, MEP.

**7. Request board approve budget amendment for 1 FTE Program Support Specialist position in Public Works in FY 2017 for \$46,832.**

**Presenter:** Vickie Zeier  
**Moved:** Nicole Rowley  
**Second:** David Strohmaier  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0

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**Additional Info:**

Resolution 2017-035. Filed with the Clerk and Recorder/Treasurer's Office. Original to Teresa Graham, Financial Services.

**8. Request board appoint members to form the Fair Event Committee.****Presenter:** Sarah Bell**Moved:** David Strohmaier**Second:** Nicole Rowley**Motion:** Motion passed as written**Vote:** Yes 3, No 0, Abstained 0**Additional** 1 Year term 3/14/2017 - 9/30/2018: (1) Jim Solomon; (2) Peter HagEstad**Info:** 2 Year term 3/14/2017-9/30/2019: (1) Janie Scheben; (2) Dave Bell; (3) Brooke Martin

3 Year term 3/14/2017-9/30/2020: (1) Laura Mitchell; (2) Jim Sadler

Alternate 3 year term 3/14/2017-9/30/2020: (1) Campbell Barrett

Original to Sarah Bell, Commissioners' Office. Letters of appointment mailed by Commissioners' Office. Letter No. 2017-076 to Jim Solomon. Letter No. 2017-077 to Peter HagEstad. Letter No. 2017-078 to Janie Scheben. Letter No. 2017-079 to Dave Bell. Letter No. 2017-080 to Brooke Martin. Letter No. 2017-081 to Laura Mitchell. Letter No. 2017-082 to James Sadler. Letter No. 2017-083 to Campbell Barrett.

**III. CORRESPONDENCE** None**IV. DISCUSSION ITEMS**

1. Special Mail Ballot
2. Draft Comments - John Hart, Attorneys
3. Upcoming board meetings and review of meetings
4. Legislative update

**V. UPCOMING EVENTS AND INVITATIONS** None**VI. OTHER COMMENTS/INSTRUCTIONS** None

<b>Wednesday, March 15, 2017</b>
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BCC met in regular session; all three present.

**Calendar**

8:00 a.m. - 9:00 a.m.	DS - Paul Filicetti
9:00 a.m. - 10:00 a.m.	BCC - Staff Update
10:04 a.m. - 11:01 a.m.	BCC - Commissioners' Administrative Public Meeting
11:00 a.m. - 12:30 p.m.	BCC - Joint City Council/BCC Meeting
1:00 p.m. - 2:00 p.m.	BCC - Health - Midyear Budget Review
2:00 p.m. - 3:00 p.m.	BCC - General Fund - Midyear Budget Review

**Administrative Meeting**

**BOARD OF COUNTY COMMISSIONERS  
ADMINISTRATIVE PUBLIC MEETING MINUTES  
MISSOULA COUNTY ADMINISTRATION BUILDING, 199 WEST PINE STREET, ADMIN ROOM 206  
March 15, 2017 Start 10:04 a.m. - End 11:01 a.m.**

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**ATTENDANCE Present:** Jean Curtiss, Nicole Rowley, David Strohmaier, Vickie Zeier, Anne Hughes, Dori Brownlow, Annie Cathey, Barbara Berens, Katie Kliez, Ellen Leahy, Chris Lounsbury, Matt Jennings  
**Other Attendees:** Tom Aldrich, Erik Dickson, Bill Burt, Nancy Harte, Emily Bentley, Melissa Gordon, Anna Conley, Bob Giordano, Peter Friesen, Martin Kidston

**I. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA** None**II. ACTION ITEMS****1. Request board approve 2017 Western Montana Fair entertainment contract for the extension of existing carnival contract with Northstar Amusements.**

**Presenter:** Tom Aldrich  
**Moved:** David Strohmaier  
**Second:** Nicole Rowley  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0  
**Additional Info:** Average revenue from 2011-2015: \$105,627  
Original to Tom Aldrich, Fairgrounds Management.

**2. Request board approve 2017 Western Montana Fair entertainment contract with Fusion Talent Group for The Canine Stars/Diving Dogs for \$12,000.** Postponed**3. Request board approve chair to sign 2017-2019 Western Montana Fair video production contract with Piranha Productions, Inc. for \$16,500 per year for three years, 2017- 2019.**

**Presenter:** Tom Aldrich  
**Moved:** Nicole Rowley  
**Second:** David Strohmaier  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0  
**Additional Info:**  
Original to Tom Aldrich, Fairgrounds Management.

**4. Request board approve chair to sign authorization of Emily Bentley to approve contracts totaling \$5000 or less for the Western Montana Fair.** Discussion Item: No action taken.**5. Request board approve chair to sign planning grant application authorization for Renewable Resource Grant and Loan Program (RRGL) with the Department of Natural Resources and Conservation (DNRC) for Public Works to attempt to fund a culvert replacement on LaValle Creek Road.**

**Presenter:** Erik Dickson  
**Moved:** David Strohmaier  
**Second:** Nicole Rowley  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0  
**Additional Info:**  
Original to Erik Dickson, Public Works.

**6. Request board approve chair to sign cooperative law enforcement annual operating plan and financial plan between Missoula County Sheriff's Office and the USDA Forest Service Lolo National Forest for up to \$21,000.**

**Presenter:** Bill Burt  
**Moved:** Nicole Rowley  
**Second:** David Strohmaier

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**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0  
**Additional Info:** For extra patrols of forest service property to reimburse County for associated expenses.

Original to Dawn Seaton, Sheriff's Office.

**7. Request board approve community development block grant revolving loan fund agreement with Missoula Institute for Sustainable Transportation/Free Cycles in the amount of \$105,000.**

**Presenter:** Nancy Harte  
**Moved:** David Strohmaier  
**Second:** Nicole Rowley  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:**

Original to Nancy Harte, Community and Planning Services - Grants.

**8. Request board approve making an offer to purchase Lot A, Block 5 in the Missoula Development Park for the purchase price of \$1,475,000 after consideration of other uses of Missoula County Airport Tax Increment Financing Industrial District funds and give board chair authority to sign the buy-sell agreement.**

**Presenter:** Dori Brownlow  
**Moved:** Nicole Rowley  
**Second:** David Strohmaier  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0  
**Additional Info:** For the potential purchase of property in Missoula Development Park for subdivision into industrial lots.

Original to Dori Brownlow, Commissioners' Office.

**9. Request board approve resolution requesting a mail ballot election for the 2017 federal special election to fill the office of the United States Representative for Montana, contingent upon passage of SB305.**

**Presenter:** Vickie Zeier  
**Moved:** David Strohmaier  
**Second:** Nicole Rowley  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:**

Resolution 2017-036. Filed with Clerk and Recorder/Treasurer's Office. Original to Vickie Zeier, Commissioners' Office.

**III. CORRESPONDENCE** None

**IV. DISCUSSION ITEMS**

1. FY 18 Substance Abuse Prevention Mill Levy Application Process
2. Community Council's contact discussion
3. Legislative Update

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**V. UPCOMING EVENTS AND INVITATIONS**

1. Five Valleys Land Trust 23rd Annual Banquet & Auction - Saturday May 20, 2017 at 5:30 p.m. UC Ballroom
2. 2017 Missoula Housing Report Press Conference - Thursday March 30, 2017 @ 10:00 a.m. Double Tree Hotel

**VI. OTHER COMMENTS/INSTRUCTIONS** None**Thursday, March 16, 2017**

JC and NR met in regular session; quorum present. DS out of office 10:30 a.m. - 5:00 p.m.

**Calendar**

8:30 a.m. - 11:30 a.m.	NR - Discrimination and Unconscious Bias in the Workplace
9:00 a.m. - 10:00 a.m.	JC - Let's Move
10:00 a.m. - 11:00 a.m.	JC - Seeley Lake ROCKS
12:15 p.m. - 3:00 p.m.	JC - Health Boards
1:30 p.m. - 3:00 p.m.	NR - Grant Meeting

**Items for Signature**

Larchmont Claims – BCC signed. One signature page for the Larchmont Golf Course Accounts Payable Invoice Register dated March 16, 2017. Amount \$92,846.17. To Barbara Berens, Auditor's Office.

Letter No. 2017-089 - BCC signed. Dated March 16, 2017 to Burke Honzel with Montana Disaster and Emergency Services for Missoula County FFY 2017-18 Emergency Management Performance Grant (EMPG) Funding Commitment Letter.

**Administrative Meeting**

The BCC administrative public meeting for March 16, 2017 was canceled.

**Friday, March 17, 2017**

BCC did not meet in regular session. JC present, NR out of the office all day to Helena, DS out of office all day.

**Calendar**

9:30 a.m. - 2:00 p.m. JC - Mental Health and Child Development Center Boards

**Journal Approval**

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Tyler Gernant  
Clerk & Recorder

DocuSigned by:  
  
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Jean Curtiss, Chair  
BCC

**Monday, March 20, 2017**

JC and CR met in regular session; quorum present. DS out of office all day.

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**Calendar**

8:30 a.m. - 10:00 a.m. JC - Forum Advisory  
 11:00 a.m. - 11:30 a.m. JC - Swearing In - Ron Adams  
 12:00 p.m. - 1:00 p.m. JC - Cynthia Rademacher  
 1:00 p.m. - 2:15 p.m. BCC - Community and Planning Services Update  
 2:30 p.m. - 3:30 p.m. BCC - Public Works - Midyear Budget Review  
 3:30 p.m. - 5:00 p.m. BCC - Rural Land Manager's Memorandum of Understanding

**Community and Planning Services Update****Agenda:**

1. Public Comment
2. Communications
3. General Updates
  - a. 1:00 - Grants Staff Update - Melissa Gordon & Nancy Harte
  - b. 1:25 - Powell County Gravel Pit - DEQ Review - Pat O'Herren
  - c. 1:30 - Training Drive Subdivision - Tim Worley
  - d. 1:40 - East Missoula Lions Park Storm Water Project Update - Garrick Swanson
  - e. 1:50 - Seasonal Mowing Contract for Canyon View Park and Cottage Park - Garrick Swanson
4. Director's Update Patrick O'Herren
5. Community Council Meeting Schedule  
 March 19th – March 25, 2017  
 Swan Valley CC March 21, 2017, 7 p.m.

**Tuesday, March 21, 2017**

JC and CR met in regular session; quorum present. DS out of office all day.

**Calendar**

10:00 a.m. - 11:02 a.m. BCC - Commissioners' Administrative Public Meeting  
 11:00 a.m. - 12:00 p.m. BCC - County Attorneys  
 1:00 p.m. - 2:00 p.m. NR - Daniel Werwath Phone Interview  
 1:00 p.m. - 1:30 p.m. JC - Swear in Ron Adams Shelby Water District  
 1:30 p.m. - 3:00 p.m. JC -Transportation Policy Coordinating Committee  
 2:30 p.m. - 4:00 p.m. NR - Coordinated Compliance  
 3:30 p.m. - 4:30 p.m. BCC - Smurfit Site/M2 Green Update

**Items for Signature**

Letter No. 2017-085 - BCC signed. Dated March 21, 2017 to Jack Long regarding condition and covenant amendment related to conditions #4, #13, and #27 of Long Addition No. 2 Subdivision that was approved by the Commissioners' at a public meeting on Feb. 23, 2017.

**Administrative Meeting**

**BOARD OF COUNTY COMMISSIONERS  
 ADMINISTRATIVE PUBLIC MEETING MINUTES  
 MISSOULA COUNTY ADMINISTRATION BUILDING, 199 WEST PINE STREET, ADMIN ROOM 206  
 March 21, 2017 Start 10:00 a.m. - End 11:02 a.m.**

**ATTENDANCE Present:** Jean Curtiss, Nicole Rowley, Vickie Zeier, Anne Hughes, Annie Cathey, Greg Robertson, Barbara Berens, Chris Lounsbury, Dori Brownlow, Andrew Czorny

**Other Attendees:** Melissa Gordon, Vicki Dundas, Jerry Marks, John Stegmaier, Peter Friesen

**I. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA** None

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**II. ACTION ITEMS**

**1. Request board approve professional services agreement with Terracon to provide a summary geological and geotechnical evaluation of Big Flat Road in the area of Deep Creek cost of \$4500.**

**Presenter:** Greg Robertson  
**Moved:** Nicole Rowley  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0

**Additional Info:**

Original to Greg Robertson, Public Works.

**2. Request board approve FY17 Alcohol and Other Drugs contract amendment no. 1 with Western Montana Addiction Recovery Services to amend section 1 of the agreement to increase it by \$32,051 to a total of \$161,969 and amend section 4 scope of work.**

**Presenter:** Melissa Gordon  
**Moved:** Nicole Rowley  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0

**Additional Info:** Underestimated tax revenue from alcohol sales, additional amount reflects sales in excess of estimates. To be used to provide substance abuse prevention, intervention, and treatment services.

Original to Teresa Graham, Financial Services. Copy to Melissa Gordon, Community and Planning Services (CAPS) - Grants.

**3. Request board approve FY17 Alcohol and Other Drugs contract amendment no. 1 with Missoula Urban Indian Health Center to amend section 1 of the agreement to increase it by \$4,085 to a total of \$20,019 and amend section 4 scope of work.**

**Presenter:** Melissa Gordon  
**Moved:** Nicole Rowley  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0

**Additional Info:** Underestimated tax revenue from alcohol sales, additional amount reflects sales in excess of estimates. To be used to provide substance abuse prevention, intervention, and treatment services.

Original to Melissa Gordon, CAPS - Grants.

**4. Request board approve FY17 Alcohol and Other Drugs budget amendment for \$36,136.**

**Presenter:** Melissa Gordon  
**Moved:** Nicole Rowley  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0

**Additional Info:** Projected tax revenue for FY16 from alcohol sales was low. Additional amount received to reflect tax collected from actual sales.

Resolution 2017-037. Filed with the Clerk and Recorder/Treasurer's Office. Original to Teresa Graham, Financial Services. Copy to Melissa Gordon, CAPS - Grants.

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**5. Request board approve professional services agreement for Pregnant or Parenting Student referrals between Missoula County Public Schools and Missoula City-County Health Department.**

**Presenter:** Vicki Dundas  
**Moved:** Nicole Rowley  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0  
**Additional Info:** No fiscal impact. Services provided may include parenting support, medical care, and other resources to maximize the student's capacity to remain enrolled in school and graduate.

Original to Holly Behlke, Missoula City-County Health Department.

**6. Request board approve chair to sign the Parks and Trails Advisory Board's recommendation to award funding up to \$38,695 from matching grants budget amount listed in the attached contracts sponsored by: Friends of Missoula Parks; Nine Mile Community Center; Bitterroot Trail Preservation Alliance; and East Missoula Lions Park.**

**Presenter:** John Stegmaier  
**Moved:** Nicole Rowley  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0  
**Additional Info:** To be used for development and maintenance projects at Missoula County Parks. Filed with the Clerk and Recorder/Treasurer's Office. Original to John Stegmaier, CAPS – Parks, Trails & Open Lands (PTOL).

**7. Request board approve budget transfer of \$47,051 for Weed District funds to allow for reallocation of revenue from fiscal year end 2016.**

**Presenter:** Jerry Marks  
**Moved:** Nicole Rowley  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0  
**Additional Info:** Funds transferred from cash to be used for matching various grant funded projects. Original to Teresa Graham, Financial Services. Copy to Jean Jenkins, Extension Services and Weed Control District.

**8. Request board approve budget transfer up to \$38,695 if all grant monies are claimed to create unique budget codes for 2017 Park Matching Grant projects.**

**Presenter:** John Stegmaier  
**Moved:** Nicole Rowley  
**Second:** Jean Curtiss  
**Motion:** Motion passed as written  
**Vote:** Yes 2, No 0, Abstained 0  
**Additional Info:** To be used for development and maintenance projects at Missoula County Parks.

Original to Teresa Graham, Financial Services. Copy to John Stegmaier, CAPS - PTOL.

**9. Request board reappoint three members to the Missoula Development Authority Board.**

**Presenter:** Dori Brownlow  
**Moved:** Nicole Rowley  
**Second:** Jean Curtiss

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**Motion:** Motion passed as written**Vote:** Yes 2, No 0, Abstained 0**Additional Info:** Reappointed new three year terms 7/1/16 - 6/30/19 Neal Leathers, Kyle Graybeal, Shawn Horton

Original to Annie Cathey, Commissioners' Office. Copy to Sarah Bell, Commissioners' Office. Letters of appointment mailed by Commissioners' Office. Letter No. 2017-086 to Neal Leathers. Letter No. 2017-087 to Kyle Graybeal. Letter No. 2017-88 to Shawn Horton.

**III. CORRESPONDENCE** None**IV. DISCUSSION ITEMS**

1. Legislative Update

2. Upcoming board meetings and review of meetings.  
3/21/2017- 7:00 p.m. - 9 p.m. Swan Valley Community Council**V. UPCOMING EVENTS AND INVITATIONS** None**VI. OTHER COMMENTS/INSTRUCTIONS** None**Wednesday, March 22, 2017**

JC and CR met in regular session; quorum present. DS out of office all day.

**Calendar**10:00 a.m. - 10:57 a.m. BCC - Commissioners' Administrative Public Meeting  
3:00 p.m. - 4:00 p.m. NR - Larry White**Administrative Meeting****BOARD OF COUNTY COMMISSIONERS  
ADMINISTRATIVE PUBLIC MEETING MINUTES  
MISSOULA COUNTY ADMINISTRATION BUILDING, 199 WEST PINE STREET, ADMIN ROOM 206  
March 22, 2017 Start 10:00 a.m. - End 10:57 a.m.****ATTENDANCE Present:** Jean Curtiss, Nicole Rowley, Vickie Zeier, Chris Lounsbury, Anne Hughes, Annie Cathey, Katie Kliez**Other Attendees:** Tom Aldrich**I. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA** None**II. ACTION ITEMS****1. Request board approve chair to sign 2017 Western Montana Fair entertainment contract with Fusion Talent Group for The Canine Stars/Diving Dogs for \$12,000.****Presenter:** Tom Aldrich**Moved:** Nicole Rowley**Second:** Jean Curtiss**Motion:** Motion passed as written**Vote:** Yes 2, No 0, Abstained 0**Additional Info:**

Filed with Clerk and Recorder/Treasurer's Office. Original to Tom Aldrich, Fair.

**III. CORRESPONDENCE** None

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**IV. DISCUSSION ITEMS**

1. Legislative Update

**V. UPCOMING EVENTS AND INVITATIONS** None**VI. OTHER COMMENTS/INSTRUCTIONS** None**Thursday, March 23, 2017**

BCC met in regular session; all three present.

**Calendar**

9:00 a.m. - 10:00 a.m.	BCC - Public Works
10:08 a.m. - 10:58 a.m.	BCC - Commissioners' Administrative Public Meeting
11:00 a.m. - 12:00 p.m.	BCC - Sheriff Midyear Budget Review
1:00 p.m. - 1:45 p.m.	BCC - Chief Administrative Officer
2:00 p.m. - 4:02 p.m.	BCC - Commissioners' Public Meeting

**Items for Signature**

Indemnity Bond – JC signed. Natasha Chinikaylo, Missoula, MT. County Payroll Warrant 31328526 issued March 16, 2016. Amount \$596.76 for wages. Warrant lost.

**Administrative Meeting**

**BOARD OF COUNTY COMMISSIONERS  
ADMINISTRATIVE PUBLIC MEETING MINUTES  
MISSOULA COUNTY ADMINISTRATION BUILDING, 199 WEST PINE STREET, ADMIN ROOM 206  
March 23, 2017 Start 10:08 a.m. - End 10:58 a.m.**

**ATTENDANCE Present:** Jean Curtiss, Nicole Rowley, David Strohmaier, Vickie Zeier, Chris Lounsbury, Anne Hughes, Dori Brownlow, Annie Cathey

**Other Attendees:** Nancy Rittel, Lt. Joshua Hamilton - Salvation Army, Julie Clark - Salvation Army

**I. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA** None**II. ACTION ITEMS**

**1. Request board approve chair to sign amendment to Salvation Army FY17 contract to provide up to an additional \$10,000 from the Community Assistance Fund for winter shelter costs for persons and families at risk of being homeless.**

**Presenter:** Nancy Rittel  
Lt. Joshua Hamilton  
Julie Clark

**Moved:** Nicole Rowley

**Second:** David Strohmaier

**Motion:** Motion passed as written with the exception of extended end date of 4/30/2017.

**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:** 149 families served so far these additional funds will serve another 33 families. Filed with Clerk and Recorder/Treasurer's Office. Original to Nancy Rittel, Community and Planning Services - Grants.

**2. Request board approve chair to sign 3 applications for historic road across state trust lands. The Department of Natural Resources will cover the application fees.**

**Presenter:** Vickie Zeier

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**Moved:** David Strohmaier  
**Second:** Nicole Rowley  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0  
**Additional Info:**  
Original to Vickie Zeier, Commissioners' Office.

**III. CORRESPONDENCE** None**IV. DISCUSSION ITEMS**

1. Legislative Update

**V. UPCOMING EVENTS AND INVITATIONS** None**VI. OTHER COMMENTS/INSTRUCTIONS** None**Public Meeting**

Meeting minutes linked to the audio recording of public meetings are available online on the Missoula County Commissioners' Meeting Minutes & Agenda portal. The portal may be found at the following web address:  
<https://www.missoulacounty.us/government/administration/commissioners-office/commissioners-meeting-agenda-portal>

MISSOULA BOARD OF COUNTY COMMISSIONERS  
PUBLIC MEETING MINUTES  
CONFERENCE ROOM 151- COURTHOUSE ANNEX  
THURSDAY, MARCH 23, 2017 - 2:00 PM

**1. CALL TO ORDER****Commissioners Present:**

Chair, Jean Curtiss  
Commissioner Nicole Rowley  
Commissioner David Strohmaier

**Staff Present:**

Sam Scott, Deputy Clerk, Clerk and Recorder's Office  
Steve Niday, Land Survey Manager, Public Works  
John Hart, Civil Deputy Attorney, County Attorney's Office  
Christine Dascenzo, Planner, Community and Planning Services  
Tim Worley, Planner, Community and Planning Services

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

**Commissioner Curtiss** – Are there any public announcements today? We have one on our form; I don't think there are any others. Commissioner Rowley is going to read the proclamation for the Recognition of National Service.

**Commissioner Rowley** – Proclamation: Mayor and County Recognition Day for National Service on April 4, 2017.

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**Commissioner Curtiss** – And I know that we have some folks here today that both work at Aging Services and probably volunteer in some of these positions so if you could all stand we could recognize you. And would anyone like to make any public comment on this? And then I know you want a picture when we are done too.

**Jacki Gerard, Corporation for National and Community Service** – Thanks for having us. We are the tiny little federal independent agency that administers all of the national service across the country. My job is to partner with local organizations and local governments to engage citizens to support critical community needs throughout the state of Montana and we do that in a lot of different cities and through the state. Missoula has been home to national service for a very long time and very supportive. In fact we've got two national service programs based here and you mentioned them. We have the Montana Campus Compact, they are with the University of Montana and they sponsor an AmeriCorps Vista and an AmeriCorps State program and so we have their folks here and then we also have Missoula Aging Services which you guys are familiar with. They sponsor the Senior Corps programs, the foster grandparent program, the RSVP program and the senior campaign program. So as you mentioned we've got a lot of those folks in the audience today, a couple of members and volunteers. They are very passionate, very motivated to keep serving and supporting our community so we are very grateful for that. We also have a lot of program staff here to support us today and as you know working on federal grants it's not the easiest thing to do and they do a great job supporting them so and every day work on them and work with us to make all of this happen so we couldn't do it without them. So very appreciative for that and want to thank you guys, the Missoula County Commissioners for registering on our website, reading the proclamation, and being long-time supporters of national service. We really appreciate that and hope that we can continue to do that for a very long time. So thank you very much.

**Commissioner Curtiss** – Thank you.

**Commissioner Rowley** – Thanks for all that you do for the community. We appreciate it.

**Commissioner Curtiss** – I have a couple notes here regarding national service in Montana. We have 1,114 local service sites in Montana, there are 5,076 Senior Corps and AmeriCorps members, 19.8 million dollars in both money from the National Service Corps and the local funding, and 21.8 million dollars in AmeriCorps scholarships have been earned since 1994. All of these items are under threat in Washington D.C. to be cut so that we can build a wall, or something, so please call your, well we don't have a congressman yet, but you call and let people know that it is important. Is there anyone that would like to speak? Alright, we will take a quick photo then with the group. There are always opportunities for more volunteers or signing up for those programs so contact Aging Services or Campus Compact.

#### 4. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

The site visit to the Camas Road-Hidden Treasure Court has been scheduled. It will be Monday, April 10, 2017 at 1:30 p.m. where myself and Steve Niday will do the site visit and John Hart is going to go. We will meet out there where Hidden Treasure Court and Camas Roads intersect. If you have any questions you can call our office. Any public comment?

#### 5. CURRENT CLAIMS LIST

Claims received as of March 6, 2017 to March 16, 2017 by the Commissioners' Office total \$1,906,561.15.

#### 6. HEARINGS

##### a. Petition to Abandon a County Road - Holland Creek Road Cul-de-sac

**Commissioner Curtiss** – So, I will open the first hearing. It is reopening the one on the petition to abandon the county road, the Holland Creek Road Cul-de-sac. Scott, I don't know if you need to tell us, we had the

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petition before, so you are just here to offer if we need to see who signed the petition. So, Steve Niday and go ahead Scott if you would like to, nothing new?

**Sam Scott, Deputy Clerk, Clerk and Recorder's Office** – No.

**Commissioner Curtiss** – So we had, this petition was certified previously. So, Mr. Niday and Mr. Strohmaier went and did the site visit. They had a difference of opinion so we will let them both talk.  
**Steve Niday, Land Survey Manager, Public Works** – I will read the very brief road viewers' report. Date of viewing Feb. 8, 2017, in attendance, David Strohmaier-Missoula County Commissioner, Steve Niday-Missoula County Land Survey Manager, Donald Erickson-Petitioner. At approximately 2:00 p.m. the attendees met at the residence of Donald and Karen Erickson at 173 Fir Lane, which is next to the subject turnaround. Although snow-covered, we were able to identify the area under consideration for abandonment. No recommendation is being made by the viewers at this time. That, as Jean noted, is because Dave and I couldn't come to an agreement so we decided to take further comment from the public and proceed from there.

**Commissioner Curtiss** – Scott, could you back that out just a tiny bit more and then show us where the cul-de-sac is. Okay, it's never been built, but it is on a plat map. I am sorry; I called you Scott instead Sam. Sam and Scott, you know you have too many first names. We will wait for this picture to come up I think.

**Sam Scott, Deputy Clerk, Clerk and Recorder's Office** – That's the deed exhibit that it referenced in the petition.

**Commissioner Curtiss** – Okay. So, Steve would you like to give your thoughts and...

**Steve Niday** – Sure, the deed exhibit that you see there was concurrently with the subdivision. The subdivision did not plat the cul-de-sac and my guess is that during the process of reviewing it the Surveyor's Office requested that a cul-de-sac be deeded to the county, along with that public right-of-way that leads up to it. That was done but there was never any road constructed in that north-south portion nor was there any cul-de-sac built. There are some existing seasonal cabins on the east side of the road and there is a permanent residence, the Ericksons, just to the north of the cul-de-sac there and they are the petitioners that are requesting the abandonment. My opinion is that any time an abandonment petition comes up we should look very hard at the long-term and not the short-term and that it would not be a good policy, I don't believe, for us to abandon public rights-of-way without there being a substantially similar access to the properties involved. In case that that road, the north-south portion were ever developed into county standard road and the public asked for the county to maintain that road we, the maintenance people, would want a place to turn their equipment around and that's one of the reasons the cul-de-sac was dedicated. There's also a national fire standard that says that any road longer than 150 feet should have a cul-de-sac for emergency vehicle turnarounds. But I will note that there was a letter provided by the emergency Swan Valley Emergency Services in support of abandoning that cul-de-sac and I spoke to the gentleman who wrote the letter in support and he just felt like his equipment that they have right now doesn't require that much room to turn around and they would be able to service those lots on the east, given the primitive. And there is a primitive road that goes in along that north-south right-of-way. So his concern was not there. I also spoke to someone from the school district up there. There is no bus service in that area at the present time, so they didn't really have a concern with it either. That kind of led me to do a little background on how often do we, the County, get requests for the creation of a cul-de-sac where there isn't one and I went back through our records over the last four decades I found 36 actual work orders where the County started a process of developing a cul-de-sac and in some cases those cul-de-sacs were developed and built and right-of-way was donated. In other cases there was a failure to follow through all the way for whatever reason. The adjacent landowners may not have been willing to give or sell at a reasonable price, the right-of-way, but the fact remains that there's been an ongoing attempt to create cul-de-sacs where there aren't any and I'll back up just a second, those 36 requests the vast majority of those were precipitated by school districts themselves, coming to the County and asking for a turnaround because they were foreseeing providing bus service to an area. So it's not that the County typically goes out tries to find these dead end roads and create cul-de-sacs, we don't, they are requested of us by other individuals.

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And I guess that's the main reason that I would suggest that we don't abandon because I don't have a crystal ball, I can't see into the future to know if that cul-de-sac may be needed at some future time.

**Commissioner Curtiss** – Thank you, Steve. Commissioner Strohmaier, would the aerial be better?

**Commissioner Strohmaier** – Yeah, I think so. So just keep in mind that the right-of-way that you were seeing on the previous schematic for the turnaround or cul-de-sac extends beyond to the north of the turquoise line right there, so it will eat up and encompass some of the area that's currently landscaped, not all of the way, but at least part of the way to the existing driveway on the property. Steve brings up some good points as far as one of the main reasons for retaining any right-of-way like this would be that there could conceivably be a use for it at some point in the future. Some of the other factors though that really put me a little bit on the fence with this are one, that it's been almost 50 years since this was platted and as you can see in the three lots below the Ericksons property where it's labeled 367, 365, 339, these are not lots without any development already on them. They are, for all intents and purposes, built out. There's the primitive road that does provide access to them so part of my thinking is, what is the likelihood that those residences would either want or need a county road built to county standards anytime in the next 50 years to access these somewhat primitive locations, vacation home sites? The other thought that came to mind, this is why I really wanted to hear again from the Ericksons today is, and this is one of the complicating factors and maybe unique factors to this situation before us today is that my understanding is that they did not know that this easement or this right-of-way existed at the time of purchase and did not know about until they were planning to sell their property and I believe relocate one of the lot lines if I'm not mistaken. And so one question that I would have for them in a little bit is had they known that would they have, a, have purchased the property in the first place or b, would they have located their improvements on the property or their driveway to the property differently than they did because the cul-de-sac is going to be pretty close to their right-of-way or to their driveway once if that ever gets fully built out and I guess the third question I would have, and I don't know if there is a representative from the title company here today to address at the appropriate time, but to what extent will, now that it is known that there is this right-of-way for the cul-de-sac, to what extent does that diminish the value of the property and would the title company be willing to close the gap and I guess make whole the Ericksons by this omission in the record if they are selling the property? So anyway, those are some of the questions that came to my mind that raised some doubt as far as is there a real value in this particular instance the county retaining this right-of-way for the cul-de-sac or by abandoning it is there anything really lost in the process?

**Commissioner Curtiss** – Thank you commissioner. Is there anyone that would like to make public comment on the request to abandon this cul-de-sac?

**Clint Romney, Title Services** – We were the title company that insured Mr. Erickson back in 1992 and that easement was not shown on there. So, in the situation that we would have now what would have to happen is he would have to file a title claim against his policy. It would then be up to our underwriters and them to determine a devaluation or what exactly would go on. So it's not really anything that can be answered, it would have to be dealt through some sort of negotiation or something along those lines. Does that answer that question, at all?

**Commissioner Strohmaier** – Partially, I am assuming there would have to be some appraisal done of that portion of property that is encompassed by the, encumbered by the right-of-way?

**Clint Romney** – Yeah, and you know, I am really not supposed to speak such stuff because it would be a claim and then they would have to go through it and work on it and see what other avenues there might be to determine that.

**Commissioner Strohmaier** – Okay, thank you.

**Clint Romney** – I would like to ask you to take a look again at a letter that was hopefully in your package that was created by Kevin Jones, an attorney, where he states a couple of things that I would like to bring up. First, is you see where that cul-de-sac would go, Ericksons own both sides of the property so it's all owned by them, it's all private, nobody else has access through there.

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**Commissioner Curtiss** – So, they own 171 and 173?

**Clint Romney** – Yes.

**Commissioner Curtiss** – Okay.

**Clint Romney** – Yep, they own the whole thing. The other thing, and I don't know if Sam can pull up a copy of the deed that created that, it was part of the documents that you had, the deed that created the cul-de-sac. It's right there. It's hard to see, but this part right here says, "In event said property ceases to be used for road purposes, then title shall revert to the Grantors, their heirs, assigns and successors."

**Commissioner Curtiss** – So what does it mean by that "property ceases to be used"?

**Clint Romney** – If it ceases to be used as a road, it reverts, it's extinguished.

**Commissioner Curtiss** – But is it just describing the cul-de-sac? Oh yeah, "10 a distance of 40 feet to a non-tangent" gotcha.

**Clint Romney** – Yep, the cul-de-sac. So we would suggest, since that road was never created, it hasn't been used for a road for 50 years that that contract right there would revert that property back to the Ericksons.

**Commissioner Curtiss** – But doesn't it say to the grantors, so wouldn't that be to the Wilhelms?

**Clint Romney** – Yeah, the grantors, their heirs and assigns and successors that would be the Ericksons.

**Commissioner Curtiss** – So their assigns and successors, gotcha. So if this was not on anybody's plat, it's this document right here is what discovered that there was a cul-de-sac.

**Clint Romney** – Right.

**Commissioner Curtiss** – Okay. Did you have a question?

**Commissioner Strohmaier** – Yeah, maybe this is a question for either Steve or John in terms of what it means to revert back. I am assuming that that would, it doesn't do so automatically, that there would need to be some action on the part of the governing body if they so interpreted the use of that road as not needing the right-of-way.

**John Hart, Civil Deputy Attorney, County Attorney's Office** – Once a county road is established and it was here, this cul-de-sac was established and accepted by Missoula County, it was never built, never used, but none the less it was established. The only way that you could abandon that is through the statutory process that you know the Ericksons are doing, by filing a petition and asking the Board of County Commissioners to abandon that. I mean you could also get a court order, there's some other options for abandonment, but having a reverter clause in the instrument that grants the property for a county road in my humble opinion would not be a valid way to abandon that. You've got to go through the statutory process that the legislature set up.

**Commissioner Curtiss** – So, it's not automatic. We have to go through this process to abandon it?

**John Hart** – No, it is, this is the process you need to go through to abandon a road.

**Commissioner Curtiss** – But I mean it didn't just revert because nobody built it?

**John Hart** – Correct.

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**Commissioner Rowley** – So, the reverter clause is really saying, once we abandon it then it would revert. It's not that it's automatically reverting after 30 or 50 years, you know what I mean? Is that a valid clause, once we abandon it?

**John Hart** – I don't know the answer to that. If we abandon the road that would then, whether this reverter clause is valid and it reverts back to the grantor of this document heirs and assigns, that I am not going to say if whether that's valid or not. All I am saying is this isn't a valid way to abandon an established county road.

**Clint Romney** – I would say that was certainly the intention of that between the parties of the time, though.

**Commissioner Rowley** – Gotcha, thanks.

**Commissioner Curtiss** – Any other public comment?

**Donald Erickson, Petitioner** – In 1992 my wife, Karen and I purchased Lot 11 along with the larger portion to the west. At that time we did not know, as was mentioned, that the cul-de-sac was there and neither did any of our neighbors. What I have drawn on here is that dark line is our current road that we use to access our home. That comes from Fir Lane which is the top horizontal line which is an improved county road which is maintained by the County. Our house is located approximately where the L is on Lot 11. I have drawn in the cul-de-sac where it would be proposed to be. And then as you can see there is a portion of it that does belong to the owner of Lot 10, just a small piece of it, but the rest is all on our property. I drew this because I wanted to show how much land there is on the lots south of us. Lot 10, as you can see, has been divided into two 50 foot lots, 50 by 500, but if you consider the usable area it's 50 by 200 which is the edge of Holland Creek that's 10,000 square feet, the south half of that is also about 10,000 square feet. Lot 10 is also about 500 feet by 100, but the usable portion is about 230 feet or 23,000 square feet. These are the only three parcels that use Holland Creek Road. With the high water table our septic tank and drain field is located in the big portion and it actually comes all the way over to where that arrow is on the large lot because the groundwater is so high that it couldn't pass inspection. Lot 10 or Lot 9 I can't imagine that it could pass inspection either today for health department. I can't see how a future development could cause a cul-de-sac be improved in that area. Not to mention that the fire department says that there is plenty of room for them to turn around. That's a 60 foot road. If you look at the road to the, if you get back on those roads again, the road to the west of the Holland Creek road is the one at the bottom going in an east-west direction and that comes from Hopkins Road, which is a north-south road, which is a 40 foot road. That subdivision was done at an earlier time than this current subdivision so there is a 40 foot road going into a 60 foot road which dead ends. On this thing that I drew you, where that red line is, there's about 97 feet of road right there so there is plenty of room if they needed a cul-de-sac they could put a sub cul-de-sac right at that corner. So we are asking for an abandonment of this cul-de-sac because we don't ever believe it would be used.

**Commissioner Curtiss** – Thank you, Mr. Erickson. Any questions for him at this time?

**Commissioner Strohmaier** – Thanks, Don. Question for you, of course hind sight is 20/20, but had you known that there was this right-of-way for a cul-de-sac would you have developed your property any differently than you did?

**Donald Erickson** – I don't know that we would have developed it. I don't know that we would have purchased it first of all. I don't know that for a fact. I can't go back and judge what I would do at that time. We really wanted to live up at Holland Lake and we probably would have bought it anyway, but we probably would have asked for this proceeding to go to abandon it at that time because it had already been 25 years up at that point where it hadn't been developed or, a lesser price, purchase price. We would have asked for a discount on it because of that.

**Commissioner Strohmaier** – And the property owner just to the south of your parcel, I don't have the person's name handy, I guess this would be for Lot 10 there. They were okay with abandoning?

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**Donald Erickson** – Who was that, the adjoining parcels?

**Commissioner Strohmaier** – The adjoining parcels.

**Donald Erickson** – Yes, they are. The Lot 9 did not sign the petition, but he called me after we had already submitted it and said he was willing to sign it. He was out of town evidently and I couldn't get a hold of him when we were getting the petition signed. But Lot 10 has signed it, both of those people. Lots 7 and 8 they were in California so they weren't available and around the corner of the two roads there's some people there that's signed it and some other neighbors and other people in the valley that have signed it.

**Commissioner Strohmaier** – Okay, thank you.

**Commissioner Rowley** – In reference to you doing a boundary line relocation, where would that be? And then, does that potentially limit the access to Lot 173 off of Fir Lane in any way?

**Donald Erickson** – No, you can see, on my drawing, right through the cul-de-sac there's two lines going in the north-south direction at the end of Lot 11, we extended Lot 11 about 200 feet.

**Commissioner Rowley** – Okay, the dotted lines is where you...

**Donald Erickson** – Yes, the dotted line. And both parcels would use that same Fir Lane or that dark line that I have with an agreement to maintain it and so on.

**Commissioner Curtiss** – So you are just trying to include this one other building in that lot?

**Donald Erickson** – It does include, yeah, it doesn't include the cabin. It includes, I have an RV storage and a wood working shop that goes into that other lot, yes.

**Commissioner Curtiss** – Okay.

**Commissioner Rowley** – And are there private access easements from Fir Lane to Lot 173, so somebody else owned 171 and 211 and you could always still access 173 without using.

**Donald Erickson** – 171 and 173 are going to have a common access with an easement on it.

**Commissioner Rowley** – Okay.

**Donald Erickson** – Is that your question?

**Commissioner Rowley** – Yeah, if there is actual legal access.

**Donald Erickson** – There will be a written easement, yes, and it will be required by the title company in fact to do that. In addition to the road there is a common agreement for the septic system and drain field that has been approved by the health department.

**Commissioner Curtiss** – So, currently what would be on here I guess Lot 10, the two skinny ones, do they have any dwelling units on them right now?

**Donald Erickson** – They do. The Lot 10, both of those parcels have cabins and Lot 9 has a cabin and a bunch of trailers and as far as I know they only have outhouses.

**Commissioner Curtiss** – Alright, any other questions for Mr. Erickson? Does anyone else want to make public comment? Does the commission need more information? Do you want me to close hearing or recess the hearing; do you need anything additional or do you want to close the hearing and make a decision today?

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**Commissioner Strohmaier** – I think I am good.

**Commissioner Rowley** – No.

**Commissioner Curtiss** – Okay, then I will close the hearing. Alright, further comments?

**Commissioner Strohmaier** – Well, when I originally agreed to go up there and look at this I had no idea that the cul-de-sac would be as complicated as it was to figure out. I guess one thought that I have here is okay worst case scenario and I don't know if that's the right way to put it, but if at some point, if we did abandon this, at some point in the time, some date future, residents along the northern dog-leg of Holland Creek Road wanted that road built out they'd be looking at potentially needing to reacquire right-of-way for a turnaround. Again, we are looking at a situation where these lots are not undeveloped, they do have dwelling units on them, so what you see is kind of what you get in terms of I don't see a great potential for additional development down the road and I guess I'm leaning towards the direction of thinking that it's after 50 years it's unlikely that there will be a great hunger on the part of these residents to build out that primitive road so I guess I would say, I am probably leaning towards granting the petition to abandon the cul-de-sac. Do we need a motion, or do we want more discussion?

Commissioner Strohmaier made the motion that the Board of County Commissioners grant the petition to abandon a portion of public right-of-way located in Missoula County as noted in the request for commission action [cul-de-sac shown and described on Deed Exhibit 2042, at the end of Holland Creek Road, as platted by Holland Lake Villa Site No. 3. Located in the northeast 1/4 of Section 3, Township 19N Range 16W].

**Commissioner Rowley** – Can you zoom out a little bit on it? And, how far into Holland Lake Road are we?

**Commissioner Curtiss** – This is about the point where it turns to go to the lake. If you go out a little bit more there's the end of the lake. The beavers usually have a dam here somewhere, right, Don?

**Don Erickson** – inaudible from audience.

**Commissioner Rowley** – I think given its location it could be an area that people want to develop in the future, but given that it's very far from any area that would allow dense development and what would be required for septic systems and things in this area until the very far future, it was a great idea to put the cul-de-sac there in the first place, but I think after 50 years and the way it has been built out and it is fully built for what it can be at this point I think what made sense then has been shown to not be the development pattern and that it would be reasonable to grant the petition as well. So I will second the motion.

**Commissioner Curtiss** – Any further discussion? I think that the high ground water being so close to the creek is a restrictive idea. Also, the cul-de-sac while it might allow some turn around it's not like a through road that's needed. If it was shown as a loop road it would be different, but there's things in the way. So, any other?

Passed 3-0.

**Commissioner Curtiss** – And Steve, thank you for making us think about the future, too.

**Commissioner Rowley** – It is so exciting. I have never seen an abandonment with different opinions on it. Yay, it's a first.

**Commissioner Curtiss** – So you will get a letter from our office saying that's been abandoned. Thank you. The next hearing is Canyon River Phasing Plan Amendment and Plat Adjustment, so I will open that hearing and we will ask Christine to give us our staff report.

**b. Canyon River Phasing Plan Amendment and Plat Adjustment**

**Christine Dascenzo, Planner, Community and Planning Services** – Today we have a consideration of two requests for Canyon River Subdivision as outlined in the applicant's letter. The first request is for a phasing plan amendment to alter Phases 6 and 11 and the second request is for a plat adjustment to alter the lot sizes in Phases 6, 7 and 11. So we are at Canyon River Subdivision in East Missoula. The Canyon River Subdivision was approved on January 10, 2001 as a 270 lot residential subdivision with a golf course on 392 acres in East Missoula. The project was phased and phasing plans have been amended numerous times. The City of Missoula annexed the entire subdivision on October 2, 2006. So it is located technically within the City, but the subdivision was approved in the County therefore, any requests related to subdivision go through the County review. The City zoning is currently RT10 (Residential 10) with a planned variation. That RT 10 variation allows for lots less than 10,000 square feet. Phases 1 through 5 were filed and 6 through 12 remain in the preliminary plat stage. So the subdivision has dedicated riparian areas around the perimeter and then through sort of the middle between filed Phase 5 and then preliminarily approved Phase 12 and those are in those circles. And the request number one is a phasing plan amendment which just requires commissioner action and therefore did not go to the Planning Board for recommendation. The second request was a plat adjustment and that required an adjacent property owner mailing and Planning Board and commissioner action. And a little more detail on that plat adjustment process. It was reviewed under Section 5.8 of the subdivision regulations and legal notice ran in the newspaper 15 days prior to the Planning Board meeting and a mailing went out to folks within 300 feet of the subdivision. The request really focused on three phases on the subdivision, Phase 6, Phase 7, and Phase 11. On the slide you can see how they are currently laid out with particular attention to the green Lot 116 that will show up in this circle. The request would move that parcel, take it out of Phase 11 and introduce it into Phase 6 so that that road can be completed before moving onto Phase 8 so that lack of the road in the middle wouldn't be held up by Phase 11. The second request is to adjust the lot sizes within the three phases. This is the existing layout and sort of the bulk of the effect of the change will occur in this corner of Phase 6. The lots will be expanded to shift two lots from Phase 6 into Phase 11 so I will go back and forth a little bit. You see Phase 6 goes up into until Lot 33 and then with the change in widening those lots Lot 32 and 33 are shifted into Phase 11. Here is a slide that shows the existing conditions and the requested change overlaid of those existing conditions. The existing lot lines are in black and then any shifts to those lot lines are shown in either red, green or blue. The Planning Board saw this request on March 7 and voted 4-2 to recommend approval of the plat adjustment. That motion included a strong encouragement to the developers to provide house drawings to the community before commissioners took action. The developers have provided those house drawings today, you have those in your packets and there are more available at the table in the rear, if any members of the public wanted to see those. We did get a lot of public comment on this request from that adjacent property owner mailing. Let me back up and explain a little history on the process as well. The original request involved shifting lots in a different way that would have facilitated townhome development in Phase 7 and that request went out for an adjacent property owner mailing and received more than 20 comments from the public opposing that request because they opposed the townhome proposal. The developer has since adjusted the request to take out shifts in the lots that would facilitate townhomes and have taken townhomes off the table for the development at this time. In addition, the developer and the applicant held a neighborhood meeting with more than 70 people in attendance and then at the Planning Board meeting we had about 11 folks in attendance from the public, five of which spoke in opposition to the proposal in the current configuration, still opposing any shift in lot lines because of a fear of townhomes or different house styles being introduced into the neighborhood. So we do have opposition from the public on this request. In addition to the other changes the golf cart paths would be repositioned to allow for those lot shifts and stop them from impinging on the existing lot lines. We did not get comments of concern from any agencies. There was one note from City Parks and Recreation that a trail to the west of the subdivision is not ADA (Americans with Disabilities Act) compliant, but looking at that is sort of beyond the scope of what we can look at in this request since it is limited to the lot lines in Phases 6, 7, and 11. Here is a slide of new housing types that would be introduced in Phase 6. So that includes Trail Creek, Clearwater, and South Fork; and for reference here are existing housing types that are currently available, so that's the Clark Fork, Rock Creek, Deer Creek and Blackfoot. Here we see the original request shifted lots to allow those townhomes and received significant opposition, the request was updated replying to that opposition and continues to receive opposition from the community. It was reviewed under the Subdivision Regulations Sections 5.8.4 and there were no findings limiting the review to the request of shifted lot lines

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that could be found to deny the request. Staff is recommending approval and we have some recommended motions here that the request to amend Phases 6 and 11 of Canyon River be approved based on staff report and public testimony and that the request to adjust the lot lines in Phases 6, 7, and 11 of Canyon River be approved based on the Planning Board recommendations, staff report and public testimony.

**Commissioner Curtiss** – So, Christine, would it make sense to do two before one? It seems like you would want to change the lines before you, well I guess it's six, one, half-dozen the other. Just one question, townhomes are allowed in the zoning right? We are talking about changing the zoning, just the neighbor requests.

**Christine Dascenzo** – That's right. And it is City zoning as well, so we don't have the authority to change that zoning.

**Commissioner Curtiss** – Okay. Did you have a question for Christine before I move to the developer?

**Commissioner Strohmaier** – Christine, so just for clarification, no new lots are being created, is that correct?

**Christine Dascenzo** – That's correct, yep.

**Commissioner Strohmaier** – And as far as the decision before us today is the type of home, style of home, even germane to the discussion, as nice as it is to see the schematics?

**Christine Dascenzo** – It's not germane to this decision, but it is sort of the cause of the concern from the public.

**Commissioner Curtiss** – Thank you, Christine. Would the developer or the developer's rep like to speak next?

**Jason Rice, Territorial Landworks, Inc.** – Paul Forsting is here for the next hearing but he also helped prepare the application so he'll maybe answer questions if you need to. The history on this is really unfortunate, I have tried to apologize in every venue I can. We should have been in front of the neighborhood as far as the fact that the townhouse was something we considered. The whole process with this new Chapter 5.8 is somewhat new as far as what we were going to hear. We wanted to see if it was supportive and even feasible to get done before we bothered anybody and the whole thing just kept moving forward and so we didn't get back in front of it. We never intended to try to steam roll anything through. It was a very quick decision to remove the narrower lots. The impetus for doing this was to get a different house style into Phase 12. When you are looking at the demand that they have on these lots and give more options for the homebuyers and so when we look at those they are wider, yet they are smaller. So the lots needed to be just a little bit wider in order to accommodate that. They have two car garages, but when you look at the efficiency of construction with the truss system and the way they are building them they are able to build a very high quality house with a very nice looking front in a smaller package with what they are doing. We are looking at, we figure we could fit them into those lots on Phase 6, tried to find the best transition, there's no perfect place for them when you are going from one style to another and do the best they can with landscaping, and they do an amazing job. We tried to move the two lots that we lost because, Commissioner Curtiss you have been here for that when we added them back in, we don't want to lose them again because that's not on the table to recoup those. So we tried to move them into Phase 7 because the zoning allowed the townhouses and some grade break changes there and we could fit garages more in the front like the typical style and so we just wanted to try to see if that was feasible. Turns out it was but things really started moving quickly and now here we are. In the middle of that, obviously we dropped that and in attempt to keep those two lots on the table we looked at Phase 11 and as it turns out we can put them in Phase 11 and those lot widths. As you know, we have been here lots of times, the Phase 1 lots were, I think, around 58 feet wide and by moving them into Phase 11 they are roughly 59 feet wide. So, they are pretty close to the original intent for that part of it. Whether they will go back to that smaller meadows style or not in there or will it be back in front of you again with another amendment trying to move those up on top, I don't know, for us it is more important to move forward with Phases 6 and 7 at this

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point in time. So we didn't want to do anything drastic that would require us to go back to the drawing board to the beginning. We wanted to do something that would put us within the same realm of what the original approval was and keep things on track with where we are going. So, yes, the house styles are not part of the review for what we are working with right now, but we also are trying to work in a lot of different places and avenues and this is part of it. In reality a lot of what we talked about at Planning Board is that there is two matters going on, there could be verbal contracts that have been broken but that's something that is a civil matter verses the regulatory plat adjustments and phasing adjustments. It is unfortunate that is the case and the developers are definitely trying to work through that and come to terms, but on the other hand we also have to keep business moving forward. They are not meaning to drop that at all. Everybody's I think still talking and really the staff report is spot on. There may be portions of it that were originally written with the idea that some lots were going to the townhouse area because we didn't fully amend it when we withdrew that, but for the most part everything looks really good and we just encourage any questions that you may have as we move forward. Thank you.

**Commissioner Curtiss** – Thank you. Is there any public comment on the request to change which phase a few lots are in and the size of the lots?

**Sharon Burman, homeowner** – I would like to begin by asking a question if I may. The criteria that are listed, is that just a set of guidelines or are each criterion to be met before approval is given?

**Commissioner Curtiss** – Christine, do you want to answer that question?

**Christine Dascenzo** – They are criteria guiding the review. Let me pull up some exact language.

**Commissioner Curtiss** – I think they are also in our packet too, right?

**Christine Dascenzo** – Yeah and so, the adjustments shall comply with those criteria.

**Sharon Burman** – So, each criterion needs to stand on its own?

**Commissioner Curtiss** – Right, so minor in nature complies with regulation, protections, no impacts, Growth Policy, consistent with finding. In other words, when this was reviewed which when you said what day it was reviewed I thought, wow, I was on the job day ten when we approved this subdivision. So, in other words, it hasn't gone against when it says consistent with findings, the things that were part of the discussion when we approved the subdivision in 2001 aren't changed a lot by saying the lots going to be in this phase instead of that phase, etc.

**Sharon Burman** – I would just like to make a brief statement then. The Planning Board reached the conclusion that the scope of the review be limited to the adjustment request. However, the adjustment request is being made to accommodate these new models. Consequently I think they are a legitimate part of the discussion. I would like to refer to 5.8.4.8 of the criteria. This criterion deals with contextual and environmental changes. I don't believe anyone has questioned that there is an environmental change. However, the issue of this criterion not being met deals with the context. At the neighborhood meeting Mr. Rice was asked this particular question and his response at that time was that prospective buyers wanted more. They wanted bigger. They wanted bump outs here and additions there. However, the results of changing the lot styles as he just mentioned is actually going to result in prospective buyers being offered less. It's a smaller floor plan, it's a two car garage, it is less expensive and hence really not in keeping with the existing homes on Angler's Bend. In the written response which is included in the minutes from the Planning Board meeting, the answer was given that the developers want this adjustment to better transition between housing models. Well, that's the very issue that concerns the homeowners who were present that night and who are present today. It doesn't seem to make any sense to us to change the architectural integrity of the Anglers Bend loop by taking 12 lots, adjusting the size to accommodate a lesser product. We, I believe, feel that that will in the end detract from the values of our existing homes, not that these drawings aren't very nice because they are, but wouldn't it make more sense to put them to maintain the architectural continuity of the Anglers Bend loop and put a different product, for example in Phase 11 and then have architectural continuity there as well. I have asked this question of Mr. Bezanson who is present

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here today and I said, why take 12 lots in the middle and put a different product there? It just seems to make a great deal of sense and his response was that those 12 will sell and the Meadows homes which I think you have also seen we have five models of those, that the Meadows homes will not. Well that kind of begs the question as why they intend to build 36 more of them. I just would also like to add that Canyon River is a lovely place to live and I think that both sides of this discussion will be ill served if we gain a reputation as a place where people can't get along. So, thank you.

**Commissioner Curtiss** – Thank you, other public comment?

**John Warner, 1064 Anglers Bend Way** – My wife Kathryn and I own Lot 143 which I believe is in Phase 1, I think. I would like to echo and I would like to add to the answer of your question, sir. What we have as owners and from your people are these criteria and I think the criteria then are very germane. I mean it is critical to us that these criteria be followed. Not just, as has been said, that the lot lines don't make any difference and we just have to deal with the developers because this commission is the final arbiter of what will happen with our homes and with the rest of the subdivision and your criteria that are published are very germane. It is apparent that at least for now and we might be back that townhomes are off the table. Now, you already have heard from staff and from the previous speaker, that there would be a different program. Okay, what I would like to add to this, not only is that it is very germane and to try and press that point, but what's happened here and that is it came to your Planning Board which gives you advice, I am sure, and you listen very carefully and so what happened at the Planning Board there was a number of us that showed up again and at that time there was a presentation from the staff which the homeowners had never seen. That's not a blame thing it is a fact and I was so shocked and I apologized to Mr. Rice; what is there a secret staff report? The motion or the recommendation of your Planning Board that came before was based on the findings of fact, we will then recommend approval. Well, since the people, and I think we are reasonably intelligent, had never seen the findings of fact, we did not have the opportunity to present the contrary or at least present any evidence. To the best of any of our knowledge there is no evidence supporting the findings of fact. There is just the basic petition and if you will note in your records the protests of many of the homeowners to say, well it doesn't give the board and now it doesn't give you any information. A few days ago Mr. Bezanson did present us with these drawings and the first copy that I got, I did go out to the club house and look at them briefly, had no opportunity to really inquire concerning the drawings and this is probably the first time you have seen them. They were not available to your Planning Board and as far as the findings of fact upon which the recommendation was based I believe there was no evidence to support those findings of fact and there certainly wasn't any opportunity to present evidence that would indicate that the criteria that we all thought that we working under, the staff did provide us with those criteria, we read them and thought well, there's nothing to support this because what's happened at Canyon River is very germane to all of us as has been previously said. Now, I believe that the homeowners who I guess it's a colloquialism and the Indians got pretty restless when they heard this and now that's why we are here. And have no, in principal, objection to amending this plat, but would like to have a full consideration of it and maybe the opportunity to make inquiry concerning the new houses which of course are not the same product and to maybe present some evidence to your board or to yourselves if you so desire that the criterias simply are not met. And under these circumstances I would think that since this is the fact and I don't think it will be denied, you would agree that the process to date has been unfair. Therefore, I think most of us are here, is there anyone who is here, of the homeowners that are in favor of the petition? I think we are all opposed to it. Not in principle, we like the opportunity to query, to question and to present to you or to your board if you would choose to do that something that would make the findings of fact meaningful to you and I would have to say, echo again that the decisions were quick. I argue to you, in my presentation here, that they were way too quick and that I think you can see the unfairness of them. Therefore, I personally would request that your decision be postponed until another meeting of your choice, until we have an opportunity to, a, talk with the developers Canyon River Property who has retained the engineers and maybe get their backers to see if we can reach some accommodation and that this would not disrupt our entire wonderful subdivision. If you have ever been out there, it is a great place to live, a lot of nice people. Calm down the antagonism that is growing and just postpone this and table it. I don't think it will have to be re-noticed formally, we would have to ask Christine about that, but since it is a postponement I think it would be just let everybody know when the next meeting would be. So that's the request that I make personally to you that this is way too fast and that it is very germane. There's more than just moving some lines on a drawing. I mean you are our last hope actually that maybe

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we can either work this out or you will have to fight...we did manage to get to dissenting votes on the Planning Board even though we didn't....well I've said it all thank you very much.

**Commissioner Curtiss** – Thank you, any other public comment? So I just want to be really clear that we never make the decision about what your house looks like or what your neighbor's house looks like or any of that. All we do is the lot lines and...

**Commissioner Rowley** – To us, how you said it's not moving lines on a paper, to us it is. That's our legal, that's the only legal purview that we have is the plat. We have zero to do with the zoning or the home design. Just to be very clear about that. We have absolutely no legal authority to do anything about those issues.

**Commissioner Curtiss** – So, since the owner is here though I guess we could ask him questions, of the developer, is that you sir?

**Ed Bezanson, representative for the developer Canyon River.**

**Commissioner Curtiss** – The reason I am asking you to come forward is when we were briefed on this project we understand that the homeowners do have a design committee though. So they do have.

**Ed Bezanson** – We have an architectural control committee, yes.

**Commissioner Curtiss** – Right, and so that is homeowners that are on that committee?

**Ed Bezanson** – Yes.

**Commissioner Curtiss** – Alright, so that gives them a little say there, too. I just wanted to make sure that was on the record.

**Ed Bezanson** – We have four or five on a committee of seven. I think it is four on a committee of seven.

**Commissioner Curtiss** – Okay, did you have a question?

**Commissioner Strohmaier** – So, I am sure you have been engaged with the neighbors in discussion, at least as of late, maybe not. But the previous speaker had mentioned that if more time was available to enter into discourse with you there might be a meeting of the minds. I guess one question for you and maybe one for staff would be first, would you see any value in postponing a decision today to come closer to some level of agreement and secondly, are we under deadlines related to making a decision here that would preclude any delay or keeping the public hearing open?

**Ed Bezanson** – Well, I would like to say a couple things. First of all, we are in discussions with the homeowners and I think those are open discussions and I think we are all friends, we may have a difference of opinion but I do want to say the homeowners are great at Canyon River and we try very hard to work with them. One thing that I would like to say is that one thing that was mentioned earlier is that the fact that we have 36 more Meadows Lots, part of the reason for that was that we wanted to try to maintain the integrity of the loop, if you will, so that everybody's looking out from a Meadows home sees another Meadows home. Also, along those lines is that there's a lake on that side and we think we will be able to sell those homes. The reality is that Meadows homes don't sell as well as something a little smaller. I think I was asked a question on square footage, just to point out the one home is going to be 1,700 one's 1,800 and one's 2,000. These homes are in the \$450-500,000 range so by no means are they inexpensive homes. But I don't see what postponing this would do. The fact of the matter is if we didn't adjust lot lines at all we could still within our rights to adjust the homes to something smaller to fit that. Our realtors tell us we can't sell. We are going to have trouble selling homes, the Meadows homes are in the \$600,000 ranges now up to \$650,000. I think the cheapest one is about \$550,000. So we are looking for another market there. So we feel strongly, we are only changing ten lots, I am sorry 12 lots within 51,52, so we don't think this request is out of line at all and we would like to go ahead and go forward with it.

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**Commissioner Curtiss** – I have one more question for you. So, you have chosen to build the houses and sell them so you have more control over the design and the look and all of that stuff. I mean technically you could sell lots and I could go build whatever kind of house I wanted or I would still have to go through the design committee but I wouldn't have to have you build it?

**Ed Bezanson** – That's correct. And typically we are not in the house building business. What we do is sell lots and then we approve builders, if you will, and the builders have to meet a certain criteria and then the homes have to meet a certain criteria, in color and a lot of design elements that are in these new homes are consistent with what we see in the other homes. So I don't think there is going to be a big change between one home to the next home, I really don't. They are going to be a little less expensive but in this market that is critical in order to move forward. I hope that answers your question.

**Commissioner Curtiss** – What I was trying to do was say, that you've actually taken way more ownership than this than a lot of people do when they have subdivision. They just sell lots and let people build houses. It looks like you are kind of honoring what people bought into.

**Ed Bezanson** – We are trying that really hard and at the same time we are trying to move forward with our business.

**Commissioner Strohmaier** – Just my second question for Christine as far as timeline and such.

**Christine Dascenzo** – So we don't have a decision deadline that is required from the subdivision regulations. We have met the noticing requirement and if you were to continue the hearing that would be the recommendation to continue it rather than to close it, if you wanted more time. And I would just note that the original Planning Board meeting was extended. It was originally going to happen in early Feb. and then was extended because of the opposition to the original request and to allow time for a neighborhood meeting. So there has been some delay in the process already.

**Commission Rowley** – I had a question for Christine as well, some of the public comment refers to CCR's (Covenants, Conditions, and Restrictions) and that's the second restated declaration of covenants, restrictions and easements for Canyon River and that is simply their covenants, correct?

**Christine Dascenzo** – That's correct.

**Commissioner Rowley** – And so I just also wanted to get on the record and for clarification for people, there's complaint that it violates the CCR's and I wanted to make it clear that covenants also are agreements between private parties. They are not regulated by the County either.

**Commissioner Strohmaier** – Question for the representative from Territorial Landworks. I think you mentioned something in your original testimony about possibly a contractual dispute that might result in civil litigation of some sort, could you explain that, does that have to do with the covenants, or?

**Jason Rice** – I think that there were some earlier comments during Planning Board and maybe at the neighborhood meeting that talked about promises about that they would only build certain houses moving forward. And so, it's the CCR's thing too, they all fall under the same realm. They are more of something that they are working through to make sure that they are on the same page. I don't know any of the details of it; those were on the record from the testimony from before. But if somebody did say, 'Hey we are only going to build houses with three car garages exactly like this one from here on out.' That could be construed as a verbal contract and to me that is not really part of reviewing a boundary plat amendment. Does that make sense?

**Commissioner Strohmaier** – Yeah.

**Commissioner Curtiss** – I think the other thing is there has been reference to both the criteria and the findings of fact conclusions of law. So, those are things that are in the subdivision regulations and there is nothing in our criteria about housing style. That is again, with your agreement with the builder, it's with

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your agreement with each other and the findings of fact, conclusions of law are that we have followed our own rules and regulations and again, they don't refer to housing style. I think that we did meet with Jason earlier this week when staff brought this forward and we went over it. I have confidence that they have heard you, that you don't want townhomes, they got that real quick. I think that you also have to realize that they have to be able to sell stuff and so adding a couple housing styles which if I was buying there I would prefer one of these housing styles over maybe your housing style and taking into account things like, when you look out your window you are going to see somebody who has a house similar to yours. I think there is a lot that has gone into it, but you could look at empty lots too where you have to mow weeds for a long time if they can't sell. So, I think there is a lot that goes into developing a subdivision of this size is it has taken us 17 years to get here. I don't think that we need to delay, I think it is private information that you need to do. Did you have a question before I take another audience?

**Commissioner Strohmaier** – I have a question for Mr. Warner, just a follow up. So you had mentioned could you just recap for me which criteria you don't think are being followed.

**John Warner** – Well the criteria that aren't being followed, again, I think it has been admitted here that the house sizes and that houses are within the criteria and are germane from the other side. On the other hand the economic criteria are not met and they are in there because you can't just have lot lines because they are meaningless. And I am sorry ma'am I kind of disagree. When you get into this, this commission has these criteria that have to do with economics, have to do with the continuity of the neighborhood and this is just what is stated and when we read these we think that you will consider factors that go into the cost of an individual lot if the lot lines are moved and therefore the only way you can consider that is what is going to happen to that lot. And then it goes right down the line. I am sorry I don't have the criteria memorized, but there's economics in there, there's continuity of the neighborhood, there are items in there that have to do with...

**Commissioner Rowley** – I don't see continuity of the neighborhood Christine, is that a criteria?

**Christine Dascenzo** – You could maybe look at it in the no impacts. No impact on previously recognized and mitigated impacts on the neighboring land or the overall community. So it refers back to that original approval process.

**Commissioner Rowley** – Gotcha, thanks.

**John Warner** – It goes back and it's easy to say, why are we doing this? Because if it's a slam dunk, if you are just changing lot lines, there's no reason to consider that. I argue to you that the reason that we do all of this is so that the promises that have been made, by the people that actually have invested up to their life savings or at least a substantial part of it, what's going to happen here become germane when they change the lines on the piece of paper. And that's actually what it says in here. It's not minor at least to many people, they argue to you it isn't. It doesn't fit the growth policy there are great impacts and they are obviously going to be some economic impacts from changing these lines.

**Commissioner Curtiss** – So this piece of the economic change means that it's 2008 and everything crashed so therefore I need to be able to sell five lots instead of three. So I think it's interpreted different by you.

**John Warner** – I think so, I understand that it is, but I am arguing to you now that my interpretation is correct, which you won't agree with and you are in the position to do that. It is an impact that necessarily flows from what's going to happen with changing the lines on the plat, in other words. And that is the argument that we make that it's a little more than just doing that and that's why we come to you who are the arbiters of whether or not that's true. So, just saying all we can look at is whether or not this line change is going to maybe extend it into the river or something, is kind of downside. I mean it is a little too narrow. Now, again, that's the argument that I make to you and it is going to happen. But the main point that I tried to make is the findings of fact that we got that we didn't even get an opportunity to look at until three-quarters of the way through the meeting could have gotten together and presented evidence that it was

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going to have an impact. Before your Planning Board we didn't get that opportunity and that's the point I was trying to make.

**Commissioner Curtiss** – So, I think you have a difference of finding of fact than we do. So our finding of fact is related to our subdivision regulations only. It's not related to the facts of what your Homeowner's Association might think.

**John Warner** – But if you don't get to see them, we don't get a chance to satisfy the argument.

**Commissioner Curtiss** – They were posted online. I am sure they were out there before that.

**Christine Dascenzo** – So they were posted online and I didn't have available copies at the Planning Board meeting that was my mistake, but I did email that packet the day after the meeting.

**John Warner** – The day after the meeting.

**Commissioner Rowley** – So at this point, do you have evidence that you would pose as contrary to our findings of fact? You say you didn't have the opportunity then, but you have the opportunity now and I haven't heard any opposition that directly relate to a finding of fact or conclusion of law.

**John Warner** – You see the recommendation is already there. Your board didn't get an opportunity to consider this and even blind we were able to get two votes.

**Commissioner Curtiss** – I think what Commissioner Rowley is asking you though is, in the findings we have 24 findings of fact, in our packet, that was emailed to you. Is there something in these findings of fact that we need to know.

**John Warner** – Could we have retained a real-estate expert that would have said, this is going to have long term affects in an attempt to convince your board if we had had it in advance.

**Commissioner Curtiss** – So you are saying the impact is to your property value?

**John Warner** – Yes.

**Commissioner Curtiss** – Okay. Well, I would think your property value will go up when there aren't weedy lots across the street.

**John Warner** – Aha, but the point I am trying to make ma'am is that we could convince you, perhaps of the other side, if we would have had an opportunity.

**Commissioner Curtiss** – But we still don't make our decisions based on your property value. That isn't our job. Our job is to make sure they followed the rules, in the subdivision regulations, and that they build nice products for people to buy to Missoula County.

**John Warner** – I think your answer ma'am maybe takes into account that it is germane that they are nice properties. And so we are going back and forth now, I hope you will understand what I am trying to say and if you disagree, then you disagree.

**Commissioner Rowley** – And I just want to make it clear, we have to decide based on the findings of fact which aren't really disputable. I mean a lot of the facts are things like it is a 12 phased 270 lot subdivision on 392 acres, that's a fact. And then the conclusions of law I think are also, you know, this is what we have to base our decision on otherwise, under the law, if we make a decision that's not based on these things we are considered arbitrary and capricious and we cannot deny a subdivision unless we have findings of fact and conclusions of law that support that. So, I think sometimes people think we have more authority than we do to consider extraneous factors, such as what the rest of the neighborhood wants, what a previous

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phase in a subdivision wants and those things, although they are very germane to the community, we simply, they don't fit into what we are allowed to consider upon approving a plat adjustment.

**John Warner** – I would disagree, but not about all of the findings of fact, but the guts of the finding of facts, about impact, the economic changes, what it will do, those are the ones that we have tried to present evidence that they were not met and that those findings of fact are not appropriate.

**Commissioner Curtiss** – Thank you Mr. Warner.

**John Warner** – As long as I can make you understand what the point is, then you will either agree with me or not.

**Commissioner Rowley** – I guess I am still confused because even though you didn't have these at the Planning Board, you have had them since, but you still, you don't have other findings of fact or conclusions of law that you think are inaccurate or misrepresented in our documents, or you do have specific other findings of fact.

**John Warner** – I think they are erroneous.

**Commissioner Rowley** – Can you give me a specific issue with our findings of fact or conclusions of law?

**John Warner** – I came here to ask for a postponement so that I could present some evidence. We could get some people that should have gone before your board in opposition to the engineers.

**Commissioner Curtiss** – So you are talking about appraisers?

**John Warner** – Possibly, and if we couldn't find them we'd just have to cave, but we didn't get the opportunity.

**Commissioner Curtiss** – But you've had this for how long?

**John Warner** – Well, we've had it now, could we have brought witnesses in here?

**Commissioner Curtiss** – You can always bring people; it's a public hearing. You can always bring people to speak.

**John Warner** – Alright, then we blew it again. We still didn't know; alright.

**Commissioner Strohmaier** – Thank you, Mr. Warner. I think I get what folks are saying that there's a concern that the change in the width of lot lines will accommodate a different home style that will, at least in the minds of residents potentially devalue other properties. I get that. My question for you, Christine, is conclusion of law that states, economic changes are not applicable the request is not due to economic changes. Could you just explain how that was arrived at because it doesn't seem completely unrelated that the change in lot lines are not connected in some way to reflecting economic conditions that will allow a different home style, so.

**Christine Dascenzo** – Sure, it is hard to divorce future economic changes which I think are being facilitated by the shift in lot lines but the request didn't claim, make any claims that were referring to an economic hardship that caused the request.

**Commissioner Curtiss** – They talked about a changing market demographic.

**Christine Dascenzo** – Right, right.

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**Commissioner Strohmaier** – So, going back to the house style schematics, there is nothing, am I correct that there is nothing in our subdivision regulations that would require at any point in the process the developer to bring anything like this?

**Christine Dascenzo** – No, you may see them in sort of a planned unit development, but not in a traditional subdivision like this.

**Commissioner Strohmaier** – Okay, thank you.

**Mike Frellick, resident at Canyon River** – I am not here to dispute your findings of facts and conclusions of law because I think that what Commissioner Rowley has indicated probably is the way this is going to end up. I just simply would like for you to know a couple of things related to this whole process that in my humble opinion had been understated and in some cases overblown by people who have given presentations. First of all, properties at Canyon River were sold, advertised, displayed, videoed, publicized as a certain style of house. A continuity of design as you will by realtors and by developers and by builders. I know my wife and I had the opportunity to choose from three models. We were also told to drive around the neighborhood and select our colors. We did that and then all of a sudden because lots were not selling we are now moving into this position that we are in right now. I think it is fair to say that a lot of us feel abandoned, a lot of us feel like we were lied to, misrepresented and that's where this resentment is stirring from. I just want you to know as public servants as well that all that glitters is not necessarily gold with regard to developers and real estate owners and builders when things are presented to you and that the public who has invested their money, who pay taxes related to the prices of those homes have a say in this whole process as well, not to the findings of fact and conclusions of law, but that does not mean that their feelings should be diminished in my personal opinion and I feel that that's where this is going. Only when an outcry was raised did the drawings that you received in this presentation today were presented to us or to the public and we were told that there would be a homeowner's association meeting on April 6 which conveniently is located after your decision date and I think that's what Mr. Warner was trying to get at here is that the opportunity for us to meet with and firm up, if you will and get in concrete some of the architectural concerns that are presented by the homeowners. Their concerns in other words, what's going to happen here? Because they have money behind it and money is money. I don't care what kind of house you build. Money is money and a lot of those houses are based upon evaluation in which we pay, everybody pays taxes that make this whole system run. And I think that's where we felt we were left in the dirt and we weren't consulted. By the admission of the Territorial Landworks, they blew it, they didn't get with us. The developers didn't get with us in advance when some of this could be worked out saving potentially some of your time, our time and in some cases costs associated with this petition. I just want you to know and I guess the only way I know how to say it is that, all that glitters is not necessarily gold here and I totally understand your findings of facts and conclusions of law, I get it, but I just think that you need to know as county servants as well that we feel unrepresented with regard to what is happening here. Now, maybe we can work this out, I don't know, I sincerely hope so. I know Mr. Bezanson and the others would like to see that happen, but to this point and time there has not been the confidence developed in these relationships to allow people that confidence level that would allow them to come in here and say, we understand, we're for it, we get it, we will go on. So I am not disputing any of your judgements, I just think it is important that you understand that concern of taxpayers and voters in that area of Missoula County. Thank you.

**Commissioner Rowley** – Thanks. I apologize if I sounded harsh or uncaring in my statements. I am just trying to act in a legally defensible way, but I absolutely do understand the community concerns and feeling the way you do and I absolutely appreciate that and I think the developer does as well. It is a very unfortunate situation and wish it didn't happen but we can't, I don't feel like we can appropriately address that ourselves. I think there is a lot moving forward that can be done hopefully to mend those relationships, but I don't want you to feel that we voting the way that we may because we don't care. It is much more complex than that. Sometimes I sound harsh and I didn't mean to if I did.

**Sharon Burman** – I just wanted to offer you one specific that I had actually made a note of. Again, in reference to 5.8.4.8 in the written response under conclusions of law, it says, the changes have occurred to the subdivision. Well, I have lived there for three years and I am not sure what the changes might be that

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would cause that answer to would be written as a response. And the written response reads, “Changes have occurred to the subdivision.”

**Christine Dascenzo** – And that is number nine in the staff report. And I can read that regulation. So, “5.8.4.8 Changes to subdivided area, the requested adjustment stems from environmental or contextual changes to area since preliminary plat approval.” So for context that market analysis and the housing types were considered the context which is, I admit, conflicting in considering the housing types at this request.

**Sharon Burman** – I thought we weren’t considering housing types.

**Commissioner Curtiss** – Well, what she is saying is that things have changed in the demand since it was approved 17 years ago. So, I hope that what you folks understand is that we have to make our decisions based on some stuff. You made your decisions based on stuff. I am happy to delay the decision until our April 13 meeting so that you have time to get some comfort level from the homeowner’s meeting. I don’t think it will change our decision in the end, but hopefully it would change your peace of mind.

**Ed Bezanson** – I am the president of the HOA and I am not sure what, there was a meeting with the developer, the style of the homes, etc. is not an action item the HOA looks at.

**Commissioner Curtiss** – Pardon, I didn’t understand what you said.

**Ed Bezanson** – The HOA is the Homeowners’ Association, I am president of the Homeowners’ Association as well. What I am trying to say is what I’m hearing from their concerns is some of the style of homes and that need to be reviewed and that an HOA issue, it’s not. It is a developer issue. That’s something the developer did. And the developer did have a meeting about a week ago or two weeks ago, whatever it was, the developer did have a meeting with, I heard something like 70 homeowners there and did address their concerns at that time. The HOA does not, the developer has total control over the architectural design, not the HOA.

**Commissioner Curtiss** – Okay, and he has a committee that makes recommendations to him?

**Ed Bezanson** – I’m sorry.

**Commissioner Curtiss** – So that design committee makes recommendations then?

**Ed Bezanson** – The design committee is administered by the developer not the HOA. The HOA has nothing to do with the design committee.

**Commissioner Rowley** – Are there any further meetings of that planned in the future, with the developer of the design, now that people have the drawings? Because they didn’t at the last meeting, correct?

**Ed Bezanson** – They did not have the drawings at the last meeting. We didn’t know there was an issue like that at the last meeting. That came up just like all of this came up. Part of the reason that I think the homeowners are so upset is that in the beginning they got this letter that said these changes are coming and reality is we didn’t know that letter was coming out either, so that started with the townhome concept which we may or may not build I don’t know, we never got that far. Like Jason had said, originally the idea was to see if that was even a potential because the builders told us that was a strong way to sell homes along the interstate, those particular lots are right along the interstate. So, that’s why we were looking at that and then all of a sudden this letter came out and I think that’s what got everybody riled up to be honest with you.

**Commissioner Curtiss** – So who sent the letter?

**Ed Bezanson** – Christine.

**Commissioner Curtiss** – Oh, okay, so it was a notice of the meetings.

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**Ed Bezanson** – And our goal in the beginning was just to see if that was potentially a possibility because we didn't know it. So, I think that is what started all of the riling up. I think they are under the understanding that they are going to get answers about all of this architectural stuff at the HOA meeting is what I was hearing and that's just simply not going to happen.

**Commissioner Curtiss** – So, while they don't have any say over it, I am trying to figure out who is going to come to this meeting that didn't come to the developer meeting?

**Ed Bezanson** – Myself. But basically it is going to be another meeting; we are not going to have a typical HOA meeting where we are going to discuss financials and all the things in the meeting. I am going to turn it over to the developer and let the community talk to the developers a second time. I just wanted to make it clear that there was a meeting, they had the meeting, there was a lot of them there and I think that's when they talked about architectural design, etc.

**Commissioner Curtiss** – And did they have these drawings at that meeting?

**Ed Bezanson** – No.

**Commissioner Curtiss** – Okay, so I think we are just talking about courtesy more than decision making.

**Ed Bezanson** – Yeah, because the HOA meeting is not, the HOA doesn't have control over the architecture at all, that is strictly the developer.

**Commissioner Curtiss** – But they are the neighbors.

**Commissioner Rowley** – Right and what feels icky to us is when there is neighbor disputes and community disputes that then get place on, where we are the inappropriate party really to solve the underlying issue here and so it would be nice for us if you all could have another meeting and maybe come to sort of more agreement because we can't make the decision that's going to, you know we can't do anything about townhomes, we can't solve the problems that actually exist here.

**Ed Bezanson** – Right, so, okay.

**Commissioner Rowley** – Which it puts us in a hard spot.

**Commissioner Strohmaier** – I would be in favor of keeping the public hearing open. I didn't hear from anyone that it was a hell no on any of this. I heard folks saying that they wanted an opportunity to have some more conversation. Maybe a couple of weeks from now we will be back here in the very same situation that we are today. My hope would be that folks would come with open minds to your next meeting and have an honest discussion because I would love to see homeowners here in support of whatever ultimately is going to be decided even though I think what you have heard from us and I just want to reiterate is ultimately we may not be taking into account home design, but I would sure love to have more meeting of the minds between the developer and homeowners before that next meeting if possible.

**Terry Alkenon, 1021 Anglers Bend** – I am about four houses down from where this new design is to take place. I think which was not my idea when it first came up, one of the planners mentioned it, that why do we need a larger lot for a smaller house? Which comes into play with the idea of findings of fact, I believe and the lot line, it needed lot lines, and I think that's a consideration that I would sure like to have made. The other thing is when the discussion that was brought up just a few minutes ago that what they were trying to do was design homes and maintain lot lines so that when someone walked out their door they would see a home very similar to the one that they live in. But all of a sudden without any kind of change in topography, change in landscape, we have a, I refer to as a line of demarcation that goes from the current Meadow home on the west side for 12 lots, a totally different design of home from the homes that are on the east side and the lake or pond side of Anglers Bend. So I believe that relocating and adjusting the lot lines based on a finding of fact does have an affect on the existing homes that are in there. So, that's

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something that the planner that brought that up also voted negatively to this proposal based on, why do you need a lot line adjustment when you are building a smaller home?

**Commissioner Curtiss** – And I believe what I heard earlier is because they wanted the houses to be a little bit wider and less deep. So it's just, I actually find all these new ones way more welcoming than your houses that all I'm looking at is a garage door, but that's just me, if I was going to buy a house there I would pick one of them.

**Jason Rice** – Some of what I am going to say is something I said at the Planning Board. There is a tremendous amount of mistrust that has been built. And the thing that's really unfortunate to me is I mean we are talking about, we have all gone through the findings of fact and all the things and we are saying it's probably not going to change. Yet, they are guaranteeing they are having this meeting, I mean travel plans have been made; people are going to be there. This meeting will occur and people are going to try to come to some terms on what they will or won't do and I think to a certain regard it kind of maintains a level of distrust to have it held over our head that we are being delayed and the only reason we are meeting is because we have to. I just want to put that on the table because there is something bigger here than this. I mean it's been on since we did some other work in the past. I have heard some of the stories of the work that we did on a rezoning and annexation stems some of the distrust that we are hearing today and that was from 2007/2008. So, what I don't understand is what I am hearing is that they need more time to consider the findings of fact, but the findings of fact are actually in a simpler and the conclusions of law are simpler than what we provided in our application which has been submitted and commented on even at our neighborhood meeting since Feb. 6 and available to the public. So that's the thing that's disheartening to me is, okay, what new conclusions are we going to come forward with? And the other thing is when we talk about that rule I think the part that I brought in and focused on is the contextual change has happened which I think we all agreed on when you look at the definition of context. It is the meaning of the time, that's what context is. The meaning of the time is that there is different home buyers out there than there were in 2001. That is our interpretation of it. On the economic, something I want to point out, we have been touting the developers for doing a lot of good things, even though we have some disagreements here, but one more good thing that they are doing that was contrary to the engineer and I pointed this out in Planning Board, we talk about economical, if we kept the two lots in there they actually have a better chance of recouping their current infrastructure outlay. They are moving them into a phase. So that is one of the reasons why wouldn't want to put them up in phase seven is because you could sell two more lots and recoup that expense easier. As engineers when we first recommended Phase 11 didn't used to be Phase 11 it used to be Phase 7 because there is a lift station at the end of it. They chose to make the through road because they thought it would make the whole neighborhood a lot better to build the road through and they are going through a significant expense to build this lift station and sewer line that won't serve any homes until Phase 11. So, to say that you are putting in, that there was any economical reason to, the way I look at the economical reason is you are looking to make the lot shorter so your road is shorter, so you have less road for the same number of lots and that is not what our intent is at all. Our intent is to just make a nice neighborhood as nice as we can given the conditions. I wanted to bring that out because that is one of the things that has been discussed and hasn't been on the table.

**Commissioner Curtiss** – Thank you, Jason. Any other public comment? Alright, I think based on what we heard here today it just seems like it will give people a little bit more time to build some trust we will recess the hearing rather than close it until April 13, 2017.

### c. Training Drive Subdivision

**Tim Worley, Planner, Community and Planning Services** – This is the Training Drive Subdivision, a proposal by B&E Corporation represented by TLI (Territorial Landworks, Inc.) for two lots on 2.22 acres near County Public Works and the airport. Again, the proposal is for two lots on 2.22 acres and one of the lots has the existing Dog Logic building on it. The Growth Policy in this location recommends primarily light industrial uses with a small amount of parks and open space in the southeast corner of the lot in question. That area is not proposed to be built on. The subdivision is zoned light industrial and it is adjacent to airport lands zoned public lands and institutions. Some of the uses that you can do in the C-11 (Light Industrial) include retail and service as accessory to a primary use, you can do veterinary services and also

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kennels in the C-II. There is a restriction in the zoning that industrial buildings have to be set back 100 feet from residential, public, or agricultural zones. To the south we do have a public zone but we are not sure what building's going to be built on Lot 2 and this would potentially affect Lot 2. No new roads are proposed with the subdivision, Training Drive provides access. There is no pedestrian facilities proposed either, but there is a requirement that they waive the right to protest being included in a Rural Special Improvement District (RSID) so that is a condition of approval. There is also a Rural Special Improvement District waiver requirement for a community water system since this subdivision will be on individual wells and not have basically community scale water flows. There is the requirement that we are recommending also for a public utility access disclaimer. It is a standard disclaimer that's placed on every subdivision plat. Recommendations for the covenants, that they add a weed management plan that they let the developer do that. There is a very robust weed management plan for this subdivision. We are recommending that be added to the covenants or added as a development agreement. We are recommending some changes to fire sprinkler and the language to conditions eight and nine slightly based on late comment we have received from Chris Newman early this week. It just elaborates on some of the corrections that need to be made to the covenants. There also will probably be a need for well isolation zones on the plats so there is a condition related to that. An avigation easement will be required for this subdivision based on its proximity to the airport. We are also recommending notes regarding proximity to the airport be placed within the covenants as recommended by the Airport Authority and that's all I have. I will be available if you have any questions.

**Commissioner Curtiss** – Would the well isolation zone be required where there is an existing well also? Or is that something the health department does?

**Tim Worley** – I am not all together sure about that. Certainly it would be required for a new well, but if you have essentially a grandfathered well that may encroach on an adjacent lot, I do not believe you would need an isolation zone for that.

**Paul Forsting, Territorial Landworks** – Thanks, Tim, and just to add clarity to that last comment, no, if you have an existing well you don't have to identify its well isolation zone on a plat, but the new one well. Other than that the application, the staff report that Tim and Christine prepared is agreeable to the owners and if you have any questions please feel free to ask me.

**Commissioner Curtiss** – And you are agreeable to the green memo also?

**Paul Forsting** – I am not sure I saw the new memo, but I assume.

**Commissioner Curtiss** – It just has a couple sentences regarding the Fire Marshall

**Paul Forsting** – I assume they are fine, I will double check them and if I do I will get back up and voice my opinion, I guess. Thank you.

**Commissioner Curtiss** – Is there any public comment on this two lot subdivision? I will give Paul a minute to read. Seeing no one come forth, I will close the hearing. Is there a motion or questions?

**Commissioner Strohmaier** – Question for Tim, so, is city sewer, wastewater available at this location?

**Tim Worley** – Yeah, that's correct. City sewer actually extends out to County Public Works which is just beyond Dog Logic and they would extend a service line, that's my understanding, to Lot 1. They would move the sewer line, I think a little bit, maybe Paul can explain? At least the graphics show some movement in the line.

**Paul Forsting** – The sewer line is actually on the property and into a man hole as is. I think there is actually two sewer lines in the area, both generally the same for all intents and purposes, but the sewer main does encroach on the northern part of the property and they will just extend it to Lot 1. A sewer service committee meeting was held with the city discussing that design and they approved it.

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**Commissioner Strohmaier** – And associated with the property, is there any waiver of right to protest annexation or how does that work?

**Paul Forsting** – I am not sure, there is a lot of waivers, but annexations is in there. Maybe within the sewer documents itself when you get sewer, I think potentially within the documents you get there you are implying that you would annex, but I can't 100 percent say that.

**Tim Worley** – I think that's true to get a sewer contract. I think you have to waive the right to potentially connect in the future even though you are getting the contract that allows you to stay in the county, at least for the time being.

**Paul Forsting** – Yeah, I am pretty much certain that is the case.

**Commissioner Strohmaier** – Okay, thanks.

**Commissioner Rowley** – Does the community water system, is it specific to these two lots or is it a larger community water system?

**Tim Worley** – I think there is actually a separate well that is going to be drilled for Lot 2.

**Commissioner Curtiss** – So, it is just a waiver in case there is ever a public one available, I believe.

**Tim Worley** – Because they don't have a municipal water system providing essentially a thousand gallons per minute they have to waive the right to protest connection to a municipal system should it come past this location in the future.

**Commissioner Rowley** - But it's just going to be each on their own private lot.

**Tim Worley** – Right, just wells on each lot for now.

Commissioner Rowley made the motion that the Training Drive Subdivision be approved based on the findings of fact and conclusions of law in the staff report and subject to the recommended conditions of approval in the staff report as well as the memo dated, March 23, 2017. Commissioner Strohmaier seconds.

Passed 3-0.

#### 7. OTHER BUSINESS None

#### 8. RECESS

**Commissioner Curtiss called the meeting to recess at 4:02 p.m.**

<b>Friday, March 24, 2017</b>
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BCC met in regular session; all three present.

#### Calendar

9:00 a.m. - 9:30 a.m.	DS - Eric Gabster
1:00 p.m. - 2:00 p.m.	BCC - Chief Operating Officer Meeting
2:00 p.m. - 3:30 p.m.	BCC - Compensation Committee FY18 Introduction

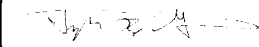
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**Journal Approval**

DocuSigned by:



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Tyler Gernant  
Clerk & Recorder

DocuSigned by:



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Jean Curtiss, Chair  
BCC**Monday, March 27, 2017**

BCC met in regular session; all three present.

**Calendar**

8:00 a.m. - 9:00 a.m.	DS - Rick Potts
9:30 a.m. - 11:30 a.m.	BCC - Community and Planning Services Update
11:30 a.m. - 12:00 p.m.	BCC - Interview Library Board - Audra Loyal
1:00 p.m. - 2:00 p.m.	BCC - No Parking Zones
2:00 p.m. - 2:30 p.m.	BCC - Legal Advisor Update
2:30 p.m. - 3:00 p.m.	BCC - Interview Library Board - Geoff Badenoch
3:00 p.m. - 4:00 p.m.	NR - Missoula Aging Services and Related Partner Programs Brainstorm
4:00 p.m. - 6:00 p.m.	DS - John Barrett

**Items for Signature**

County Payroll Transmittal Sheet – BCC signed. Pay period: 06/CY2017 - Pay Date March 17, 2017. Total payroll \$1,670,645.34. To Barbara Berens, Auditor's Office.

**Community and Planning Services Update**

Agenda:

1. Public Comment
2. Communications
3. General Updates
  - a. 9:30 - Bison Range Resolution - Karen Hughes
  - b. 9:45 - Implementing the Target Range Plan - Fred Stewart
  - c. 10:05 - Bonner Streetcar Trail Letter - Kate Washington
  - d. 10:15 - Transportation Alternative Applications - John Stegmaier
  - e. 10:20 - Big Sky Park Plan Amendment for New Uses - John Stegmaier
  - f. 10:40 - Kenecott's Copper Exploration - Copper Cliff - Andrew Hagemeier
4. Director's Update Patrick O'Herren

**Tuesday, March 28, 2017**

BCC met in regular session; all three present.

**Calendar**

9:00 a.m. - 10:00 a.m.	BCC - Public Service Agencies
10:15 a.m. - 11:13 a.m.	BCC - Commissioners' Administrative Public Meeting
11:30 a.m. - 1:00 p.m.	DS, JC - Arts and Culture Awards Luncheon
12:00 p.m. - 2:00 p.m.	NR - Montana Women in Conservation Award Luncheon
2:00 p.m. - 3:00 p.m.	BCC - Litigation
3:00 p.m. - 3:30 p.m.	BCC - Interview Evaro-Finely-O'Keeffe Community Council - Andy Hayes
3:30 p.m. - 4:00 p.m.	BCC - Interview Local Emergency Planning Committee - William Van Horn

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**Items for Signature**

Employee Benefits Claims - BCC signed. Employee Benefits Manual Check Claims dated Mar. 20, 2017. Amount \$16,668.33. To Barbara Berens, Auditor's Office.

Letter No. 2017-091 - JC and NR signed. Dated March 28, 2017 to thank Geoff Badenoch for applying to serve on the Missoula City-County Library Board although another candidate was chosen.

Letter No. 2017-092 - JC and NR signed. Dated March 28, 2017 to thank Barbara Berens for applying to serve on the Missoula City-County Library Board although another candidate was chosen.

**Administrative Meeting**

**BOARD OF COUNTY COMMISSIONERS  
ADMINISTRATIVE PUBLIC MEETING MINUTES  
MISSOULA COUNTY ADMINISTRATION BUILDING, 199 WEST PINE STREET, ADMIN ROOM 206  
March 28, 2017 Start 10:15 a.m. - End 11:13 a.m.**

**ATTENDANCE Present:** Jean Curtiss, Nicole Rowley, David Strohmaier, Vickie Zeier, Chris Lounsbury, Anne Hughes, Adriane Beck, Barbara Berens, Dori Brownlow, Annie Cathey, Katie Kletz

**Other Attendees:** Erin Kautz, Jeff Darrah, Lisa Beczkiewicz, John Stegmaier, Sarah Bell

**I. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA** None

**II. ACTION ITEMS**

**1. Request board approve chair to sign 3 year license agreement between King County and Missoula Office of Emergency Management for continued use of King County's copyrighted Criteria Based Dispatch Guidelines.**

**Presenter:** Adriane Beck  
**Moved:** David Strohmaier  
**Second:** Nicole Rowley  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0  
**Additional Info:** No fiscal impact.  
Original to Adriane Beck, Office of Emergency Management (OEM).

**2. Request board sign Funding Commitment Letter for Emergency Management Performance Grant for \$100,000 of federal funding matched by \$100,000 of County funding.**

**Presenter:** Adriane Beck  
**Moved:** Nicole Rowley  
**Second:** David Strohmaier  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0  
**Additional Info:**  
Original to Adriane Beck, OEM.

**3. Request board approve Fifth House Consulting independent contractor agreement for Missoula Invest Health survey analysis and report not to exceed \$6,000.**

**Presenter:** Lisa Beczkiewicz  
**Moved:** David Strohmaier  
**Second:** Nicole Rowley  
**Motion:** Motion passed as written  
**Vote:** Yes 3, No 0, Abstained 0

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**Additional Info:** Term: March 1, 2017 to April 23, 2017. Neighborhood health survey and results reporting.

Original to Holly Behlke, Missoula City-County Health Department (MCCHD).

**4. Request board approve professional services agreement for painting of the Animal Control kennels by Mountain West Contracting LLC not to exceed \$18,784.**

**Presenter:** Jeff Darrah

**Moved:** Nicole Rowley

**Second:** David Strohmaier

**Motion:** Motion passed as written

**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:** Removal of old floor and wall paint and application of high-abrasion resistant finish to seal floors and walls. Term: April 10, 2017 to April 17, 2017.

Original to Holly Behlke, MCCHD.

**5. Request board approve chair to sign contract with the Urban Institute providing \$50,000 of grant funds to implement the Native Outreach Project in the Missoula County Detention Facility.**

**Presenter:** Erin Kautz

**Moved:** David Strohmaier

**Second:** Nicole Rowley

**Motion:** Motion passed as written

**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:**

Original to Erin Kautz, Community and Planning Services - Grants.

**6. Request board approve 2 year employment agreement with Jason Emery, Technology Director, with approximately \$2750 annual increase including benefits.**

**Presenter:** Chris Lounsbury

**Moved:** Nicole Rowley

**Second:** David Strohmaier

**Motion:** Motion passed as written

**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:** Pay: \$52.52 per hour. Term: March 21, 2017 to Nov. 19, 2018.

Filed with the Clerk and Recorder/Treasurer's Office. Original to Patricia Baumgart, Human Resources and copy to Andrew Czorny, Commissioners' Office.

**7. Request board appoint new alternate member to the Library Board.**

**Presenter:** Sarah Bell

**Moved:** David Strohmaier

**Second:** Nicole Rowley

**Motion:** Motion passed as written

**Vote:** Yes 3, No 0, Abstained 0

**Additional Info:** Appointed Audra Loyal as alternate member term expiring June 30, 2022.

Original to Sarah Bell, Commissioners' Office. Letters of appointment mailed by Commissioners' Office. Letter No. 2017-090 to Audra Loyal.

**III. CORRESPONDENCE** None

**IV. DISCUSSION ITEMS**

1. The Parks, Trails & Open Lands Program will be submitting two Transportation Alternatives funding applications later this week for the Grant Creek Trail County Phase-II and the Bonner Streetcar Trail

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2. Upcoming board meetings and review of meetings

3. Legislative Update

**V. UPCOMING EVENTS AND INVITATIONS** None**VI. OTHER COMMENTS/INSTRUCTIONS** None**Wednesday, March 29, 2017**

JC and CR met in regular session; quorum present. DS out of office all day in Helena.

**Calendar**

10:00 a.m. - 10:40 a.m. JC/ NR - Commissioners' Administrative Public Meeting  
 1:00 p.m. - 2:00 p.m. JC - Daniel Werwath Phone Interview  
 4:00 p.m. - 5:00 p.m. NR - Technical Advisory Group

**Items for Signature**

Replacement Warrant – JC signed. Becky Sorenson, Missoula, MT. Missoula County Public Schools Warrant #246261, issued March 20, 2017 on payroll fund. Amount \$5,163.41 for wages. Warrant not received in mail.

**Administrative Meeting**

**BOARD OF COUNTY COMMISSIONERS  
 ADMINISTRATIVE PUBLIC MEETING MINUTES  
 MISSOULA COUNTY ADMINISTRATION BUILDING, 199 WEST PINE STREET, ADMIN ROOM 206  
 March 29, 2017 Start 10:00 a.m. - End 10:40 a.m.**

**ATTENDANCE Present:** Jean Curtiss, Nicole Rowley, Vickie Zeier, Chris Lounsbury, Annie Cathey, Barbara Berens, Katie Kliez, Andrew Czorny

**Other Attendees:** Erik Dickson, Sarah Bell

**I. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA** None**II. ACTION ITEMS****1. Request board approve professional services agreement between Missoula County and Summit Golf Management LLC for operation of the Larchmont Golf Course.****Presenter:** Vickie Zeier**Moved:** Nicole Rowley**Second:** Jean Curtiss**Motion:** Motion passed as written**Vote:** Yes 2, No 0, Abstained 0

**Additional Info:** Term: Jan. 1, 2017 to Dec. 31, 2021. Compensation: Not to exceed \$36,000 per year for services; 11.5% of green, golf cart, pull cart, and driving range fees and season passes; 100% of revenues from lessons, club rentals, club repair and retrieved lake balls; and all proceeds from sales generated at the professional shop.

Filed with Clerk and Recorder/Treasurer's Office. Original to Vickie Zeier, Commissioners' Office.

**2. Request board appoint new member to the Evaro-Finley-O'Keefe Community Council.****Presenter:** Sarah Bell**Moved:** Nicole Rowley**Second:** Jean Curtiss**Motion:** Motion passed as written

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**Vote:** Yes 2, No 0, Abstained 0**Additional Info:** Appointed Andy Hayes to vacant term expiring May 31, 2019Original to Sarah Bell, Commissioners' Office. Letters of appointment mailed by Commissioners' Office.  
Letter No. 2017-093 to Andy Hayes.**III. CORRESPONDENCE** None**IV. DISCUSSION ITEMS**

1. Discussion of Public Works Department road maintenance budget.
2. Legislative Update

**V. UPCOMING EVENTS AND INVITATIONS**

1. The Missoula Economic Partnership Luncheon is coming up on April 12, 2017 from 12:00 p.m. to 1:30 p.m. Please let Sarah Bell know, today, if you would like to attend so we can RSVP.

**VI. OTHER COMMENTS/INSTRUCTIONS** None**Thursday, March 30, 2017**

BCC met in regular session; all three present.

**Calendar**

9:00 a.m. - 10:00 a.m.	BCC - Weed Control Update
10:00 a.m. - 11:45 a.m.	JC, DS - Missoula Housing Report Press Conference
10:30 a.m. - 12:00 p.m.	NR - Missoula Aging Services-Governing Board Organizational Issues Meeting
12:00 p.m. - 1:30 p.m.	BCC - Networking -- Providence Saint Patrick Hospital
2:00 p.m. - 3:30 p.m.	JC - Missoula Economic Partnership Board
2:00 p.m. - 3:00 p.m.	BCC - Health Department Update
3:00 p.m. - 4:00 p.m.	BCC - Seeley Lake Community Foundation-Highway 83 Trail
4:30 p.m. - 5:30 p.m.	DS - Nikki Manning

**Administrative Meeting**

The BCC administrative public meeting for March 30, 2017 was canceled.

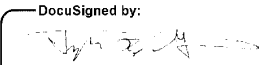
**Friday, March 31, 2017**

BCC met in regular session; all three present.

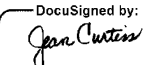
**Calendar**

8:00 a.m. - 9:00 a.m.	DS - Jana Staton
10:00 a.m. - 11:00 a.m.	DS - Missoula Aging Services Orientation
11:15 a.m. - 12:00 a.m.	BCC - Partners for Reintegration Updates
1:00 p.m. - 2:30 p.m.	BCC - Budget Overview
3:00 p.m. - 4:30 p.m.	DS - Historical Museum

**Journal Approval**

DocuSigned by:  
  
 604CF6776D68405...

Tyler Gernant  
Clerk & Recorder

DocuSigned by:  
  
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Jean Curtiss, Chair  
BCC