

## **PUBLIC MEETING – NOVEMBER 30, 2005**

The Public Meeting was called to order at 1:30 p.m. by Chair Jean Curtiss. Also present were Commissioner Barbara Evans, Commissioner Bill Carey, Deputy County Attorney Marnie McClain and Assistant Public Works Director Tim Elsea.

### **Pledge of Allegiance**

### **Public Comment**

Dennis Daneke: Thank you. I'm Dennis Daneke with the Carpenters Union. I've put together a package for each of the Commissioners. It's about a topic that's of concern to us, it's called *Best Value Contracting*. It's a different way to do contracting than has commonly been done to date. Commonly to date, we generally see "lowest bid," sometimes called "lowest responsible bid." There are problems with lowest bid. It's a system that's set up to lead to a spiral to the bottom. You end up with a Wal-Mart system of contracting where price becomes everything. We're going to ask you to consider an alternative approach. That is where the reputation of the contractor, what the contractor offers to the community as a whole through their workers, also become integral components of selecting the proper contractor for a job. This is an appropriate time. According to the paper, which could be incorrect again, the County is going to build a building for Direct TV. That's a large project, we'd like you to consider using best value contracting on that project. It could be a prototype attempt of some sort where we work the bugs out. My secretary goofed; there's supposed to be a business card on here. I can get you guys a card. If you have any questions I'm available. Tom Tanner with the building trades, any of these gentlemen will be glad to help you out. It's no harder, it's just different. We're going to argue that community values need to be selected by contractors used by government. Contractors that provide health insurance, benefit the entire community. Those that provide a pension, benefit the entire community. Those that have a training program, benefit the entire community. These should be considerations that should be given to awarding contracts.

Commissioner Evans: Dennis, we had a bid last week for some sheriff's cars and the cars they wanted weren't the lowest bid. That's who we awarded it to contingent upon County Attorney determining whether or not the law had changed. We think that the law has changed to say the lowest bidder. We will look at this but it's going to be based on what the law tells us we have to do. I see you have a whole package here. You may have taken that into account already, but you need to know that that's where we are at the moment as looking at that issue.

Dennis Daneke: Behind the first sheet, there's legal opinion from Ted Nugent that is two weeks old.

Commissioner Evans: We'll sure look at it.

Dennis Daneke: Okay, thank you.

Dan Dugan: My name is Dan Dugan, I'm a representative of Teamsters Local 2, here in Missoula. I just want to go on the record and support of these Best Practices contracting and bid selection. Thank you.

Dewey Nygaard: I'm Dewey Nygaard with the Operating Engineers Local 400 and also like to go on the record.

Brian Booth: I'm Brian Booth with the International Brotherhood of Electrical Workers Local 768 here in Missoula, and I would also like to go on the record in support of Best Value Contracting practices.

Mick Mulholland: I'm Mick Mulholland with the Laborers International Union North America Local 1686. I will go on record supporting the Best Value Contracting.

Steve Carey: Steve Carey, Local 459 Plumbers and Pipefitters. I would just like to be on the record as supporting this.

Tom Tanner: I'm Tom Tanner with Iron Workers Local 14. We as well would like to support this.

### **Routine Administrative Actions**

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted the past week and approve the weekly claims list in the amount of \$228,503.54. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

## **Bid Award: Rock Crushing for Seeley Lake Rock Pit (Public Works)**

Tim Elsea presented the staff report.

This is a request to award a bid for Rock Crushing of 27,000 tons of material in the Seeley Lake Rock pit. Bids were let for the rock crushing contract with seven bid packets being distributed. There were four responders, two were responsible, as follows: Herb Richards Construction in the amount of \$79,840.00; Mickelson Construction in the amount of \$119,750.00; Jim Phillips Construction in the amount of \$121,610.00; and AAA Construction in the amount of \$149,300.00.

Chair Curtiss: When you said two are responsible, the others didn't meet your qualifications or specifications?

Tim Elsea: They didn't give us their contractor number and license. It was an oversight, but they weren't low anyway.

Chair Curtiss: Is there anyone from the public who would like to comment on this bid award? Seeing none.

Commissioner Evans moved to approve the award for rock crushing at the Seeley Lake Rock Pit to Herb Richards Construction in the amount of \$79,840.00 as they are the lowest bid. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

## **Hearing (Subsequent Minor Subdivision): Elk Meadows, Lot 46 (2 lots on 11.85 acres) – Corner of Wapiti Road and Wambli Lane, north of Huson**

Mary McCrea, Office of Planning and Grants, presented the staff report.

Elk Meadows, Lot 46 Subdivision is a proposal by William and Donna Griffin, represented by Ron Ewart of Eli and Associates. It is located at the corner of Wambli Lane and Wapiti Road, north of Huson in the Six Mile area. The site is 11.85 acres and the proposal is for two lots. Lot 46B, the northernmost lot, is 5 acres with an existing residence, while Lot 46A, the southernmost lot, is 6.85 acres and vacant. Lot sizes of the original Certificate of Survey were 10 acres or greater. The covenants filed in 1974 permit lots as small as 5 acres. Subsequent subdivisions since 1974 have lead to 23 new tracts ranging in size from 4.4 acres to 11.59 acres within Elk Meadows Ranchettes.

The property is gently sloping with slopes from near level up to 12%. The northwestern half of the site is heavily forested in Douglas Fir and Ponderosa Pine. The southeastern half of the site contains some forested areas and open grasslands. Per Missoula County's 1992 *Inventory of Conservation Resources* and Missoula County cadastral data, the northeast corner of the site is designated as crucial winter/summer habitat for elk and winter range for elk and mule deer. The entire property is designated as winter range for white tail deer. The Development Covenants contain a Living with Wildlife section. Montana Fish, Wildlife and Parks recommended additions to the wildlife section, which staff has recommended as conditions of approval.

The property is unzoned and located outside the Urban Growth Area. The applicable plan is the Missoula County Growth Policy (2002) with the applicable amendment, the 2002 Regional Land Use Guide based on the 1975 Missoula County Comprehensive Plan, which designates the parcel as "Rural Low Density Residential" with a recommended density of one dwelling unit per 10 acres. The proposal is not in compliance with the land use designation of the Comprehensive Plan for the area. Infrastructure available to the subdivision includes a community water system for household water and fire protection and private road access. Lots will be served by individual septic systems.

The property is accessed from the frontage road north of Huson to Sixmile Road. Sixmile Road is the nearest County maintained paved road and intersects Wapiti Road about one mile from the subdivision. Wapiti Road and Wambli Lane are 20-22 foot wide gravel roads within 60 foot wide private access easements. The Subdivision Regulations require a 24 foot gravel surface width for Wambli Lane and Wapiti Road, both private roads. The applicant is asking to vary from this standard.

The existing house on proposed Lot 46B is accessed via Wambli Lane at the northwest corner of the site along an existing 10 foot wide driveway which loops around across Lot 46A to the intersection of Wambli Lane and Wapiti Road. The applicant proposes to widen the existing driveway to the house on Lot 46B to a 12 foot surface width within a 20 foot unobstructed width and has included the requirement in the Development Covenants. The portion of the existing driveway on Lot 46A which loops around to the intersection of the two roads is proposed to be

removed and relocated to a point 125 feet east of the intersection of Wapiti Road and Wambli Lane. County Public Works is requiring the driveway approach for Lot 46A be relocated away from the corner for safety reasons. Bill Otten of the Missoula County Weed District is requiring the abandoned portion of the existing driveway to be revegetated.

The applicant has requested variances from the 24 foot surface width standard for Wapiti Road and Wambli Lane and from the requirement to provide internal pedestrian connections. Staff and Planning Board approve of both variance requests. The proposal adds one additional lot and widening of Wapiti Road and Wambli Lane, adjacent to the subdivision, would disrupt the current drainage system. County Public Works and Frenchtown Rural Fire District expressed no concerns with the proposed road sections for Wambli Lane and Wapiti Road. Staff received two public comments from surrounding property owners which are attached to the staff report.

Staff recommended nine conditions of approval. Conditions 1, 2 and 3 concern roads and driveways, Conditions 4 and 5 deal with fire protection issues and Condition 6 relates to weeds. Wildlife concerns are addressed in Conditions 7 and 8 and changes to the covenants are addressed in Condition 9.

Staff recommended approval of the subdivision to the Planning Board when they reviewed this subdivision on November 15, 2005. They worked their way through the variance requests and conditions. They recommended approval of both variance requests. They amended Condition 5 to include additional information regarding defensible space standards and then recommended approval of the conditions as amended. However, Planning Board's motion to approve the subdivision failed due to concerns about whether the community water system could accommodate the subdivision, specifically in the case of water supply for fire protection.

At Planning Status on Monday, November 28, 2005, the Commissioners requested the first three conditions relating to roads be revised in response to County Attorney concerns. The first condition is included in the Development Covenants and should be deleted. The second and third conditions should be revised to require the language in the condition be added to the Development Covenants prior to final plat approval. The Commissioner requested Condition 5, as amended by Planning Board, be reviewed by the Frenchtown Rural Fire District. Cindy Crittendon from Frenchtown Rural Fire is present and will respond to that request.

Chair Curtiss: Thank you Mary. Would the developer's representative like to speak?

Ron Ewart: Good afternoon, my name is Ron Ewart, I'm with Eli and Associates. I would like to thank Mary for her work on this subdivision proposal. We're in agreement with the changes to the recommended conditions of approval as Mary outlined. We went through this in quite some depth Monday morning and I think that would take care of all the issues. I've spoken with our clients about the need to relocate the driveway and to widen the existing driveway. They are fine with that. Hopefully, Cindy has some information on the water system. I talked to people that administer the water system, I have talked to people that live their. They say that it works fine. They have about 160,000 gallons of capacity. They just drilled a new well. They're looking at hopefully doing additional upgrades to the water system in the future. In general, the Elk Meadows Community is a nice community. Probably about half the lots are 5 acres in size and the rest are 10 acres. The covenants allow 5 acre lots. They maintain their own roadways; the roadways are all in good conditions and to me it looks like a nice place to live. This subdivision would be keeping with the expectations of the people who live in the area. Thank you.

Chair Curtiss: Cindy, would you like to come and talk to us about the water concerns.

Cindy Crittendon: Good afternoon, Cindy Crittendon, Frenchtown Fire Department. Usually our issues are access and mitigation and water supply for fire suppression. After I talked to Mary, I looked up records on Wambli Lane, there's a hydrant right there. Last summer – so a lot of time, the summer issues was a problem with some of the homeowners with water. We tested that hydrant at 546 gallons per minute. In July – I think it was July, it was a summer month – we don't have any issues with the water supply. I think that we will be fine. In fact, that subdivision has very good hydrants. Like Ron said, updating the storage would be a good thing, if they wanted to do that, but for right now we're fine with it.

Chair Curtiss: Cindy, is that something that you do? Do you test fire hydrants annually, bi-annually?

Cindy Crittendon: We do. Our Operation Chief, that's where I get the information, he and crews go out and test all the hydrants in our district and we keep record at the fire house so we can go in and access those records, and we do.

Chair Curtiss: Condition 5, they added, so that would be just to ask that the fire department review it, right? That was the language that we need to add? To make sure that it has a 12 foot surface width and a 20 foot unobstructed width in the 13.9 for height.

Mary McCrea: Actually the one I was thinking about was the one that Planning Board had revised – Condition 5 – where they added language. Frenchtown Rural Fire had recommended that they had fuel mitigation measures – “shall be reviewed and approved by Frenchtown Rural Fire Department prior to home construction.” Planning Board added to that, that it state “fuel mitigation measures shall conform to the defensible space standards as set forth for the State of Montana by the Department of Natural Resources and Conservation, and be reviewed and approved by Frenchtown Rural Fire.” I didn’t know whether you had concerns with that additional language.

Cindy Crittendon: Actually, I think I sent – was it you Mary I sent the guidelines for mitigation – was it you that I sent that to?

Mary McCrea: I don’t think so.

Cindy Crittendon: That’s what we use. We use those guidelines. The reason we like to go and make sure that it’s been done, so it does get done. We try to go and review that.

Chair Curtiss: Cindy, the new language that we hadn’t seen before was, “standard set forth by the State of Montana and DNRC.” Is that where you get yours?

Cindy Crittendon: That’s the standards we do, yes, we use those.

Chair Curtiss: That’s the same ones you use. Okay. Any other questions for Cindy? Thank you.

Cindy Crittendon: Thank you.

Chair Curtiss: This is a public hearing. Is there anyone else who would like to make comment? Seeing no one come to the mic, I will close the hearing.

Commissioner Carey: I have a question, I don’t know who it is for though. I wasn’t able to attend Planning Status so I’m not clear why the Planning Board put that amended condition in and then turned the subdivision down. Could somebody give me a little background on that?

Mary McCrea: Typically, Planning Board goes through the variance request and all the conditions. There were two public comments – so they’ve gone through that work and then when they were talking about this subdivision itself, there was concern expressed by two adjacent property owners about whether there would be sufficient water. They expressed that in two months of the summer, they’re on water restrictions. So there were questions about whether there would be sufficient water in the fire hydrant at that corner if they were having low water. Ron wasn’t able to answer that specific question, and so based on that, and the fact that they felt that half of the lots had split and that they could see another 20+ lots coming into be split, they wanted to make sure that there was sufficient water.

Commissioner Carey: Thank you. I take it the Fire District is okay with the subdivision. Cindy is nodding affirmatively.

Cindy Crittendon: For the record, Cindy Crittendon, Frenchtown Rural Fire. Yes, we don’t have any concerns with it. Testing that hydrant in the middle of the summer and getting 546 out of it, that’s sufficient for us. We can also use other hydrants in that subdivision as well as the draft site there.

Chair Curtiss: And the two letters that you referred to were both about water. So that was the only concern that we had from the neighbors. Today you handed out a new sheet to address what we talked about in Planning Status to delete the first condition because it’s covered in the Development Covenants and to amend the other two – to refer to development covenants but they were not items that were practical to have happen before final plat approval and that’s why we recommended changing that. We need to address those. I guess we’re ready for a motion if there are no other comments from staff.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(1)(I) of the Missoula County Subdivision Regulations which requires a 24 foot surface width for private roads, to permit a 20 to 22 foot surface width for Wapiti Road and Wambli Lane, based on the findings of fact set forth in

the staff report; and approve the variance request from Section 3-2(8)(A)(iv) of the Missoula County Subdivision Regulations to not provide internal pedestrian connections and pedestrian connections to school bus stops and adjoining neighborhoods, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners deleted staff's Condition 1 as the language is already included in the Development Covenants. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners amend Condition 2 to delete "prior to final plat approval" from the last sentence and add a new sentence to the end of the condition that reads: "The Development Covenants shall be amended to include the requirement, prior to final plat approval." Commissioner Carey seconded the motion. The motion carried on a vote 3-0.

Commissioner Evans moved that the Board of County Commissioners amend Condition 3 to read: "The new driveway for Lot 46A shall access Wapiti Road a minimum of 125 feet east of the right-of-way point of curvature for the Wapiti Road intersection with Wambli Lane, subject to County Public Works review and approval. The Development Covenants shall be amended to include the requirement, prior to final plat approval." Commissioner Carey seconded the motion. The motion carried on a vote 3-0.

Commissioner Evans moved that the Board of County Commissioners approve the Elk Meadows, Lot 46 Subdivision, based on the findings of fact in the staff report and subject to the conditions as amended.

Commissioner Carey: We need to deal, don't we, with the Planning Board's amendment to Condition 5, on Page 2 of the Request for Commission Action.

Commissioner Evans: Do you want it left the way it is, which is, "conform to the defensible space"?

Mary McCrea: Sure.

Commissioner Evans: Okay, then including Condition 5, because it's approved by Frenchtown Fire that that is what they use, so we really don't need to change that. Go ahead Marnie.

Marnie McClain: What I heard was that these are guidelines that have been issued by DNRC. I'm not really clear on what it is that you do with these guidelines and how they're going to be implemented. If you don't have building permits, how is this going to work mechanically as far as them being followed through on. I'm not clear on what is going to happen.

Chair Curtiss: Frenchtown Rural Fire has what they call a permit process, so they work with folks. Cindy, did you want to elaborate on that for us please.

Cindy Crittendon: Cindy Crittendon, Frenchtown Fire. Yes, we have a Fire Safety Permit and what we do is we issue that and we actually go out and – I'm wanting to say inspect – we go out and make sure that the work has been done. The homeowner can either do it their self or hire it out, so it doesn't matter how it gets done. The standards are pretty much the same as Fire-Wise Communities. We all kind of use the same – the clearance around the house, thinning trees, branches and that kind of thing for wildland fire. Did I answer your question or not?

Marnie McClain: It's issued as part of building their house?

Cindy Crittendon: I'm not sure what the question is.

Marnie McClain: There's a permit you said?

Cindy Crittendon: Yeah, it's a Fire Safety Permit and basically we issue the permit to them and then we go – when they say the work has been done – we go and approve the work that is to our standards and to DNRC.

Chair Curtiss: Cindy, what triggers this so you know to go out and do this inspection?

Cindy Crittendon: The permit. Usually, when we issue the permit, it will have on there that they have to do this before the construction or during the construction. So it's okay if they want to put the foundation in. Usually that's

what they will do, they will put a foundation in, where they have something to look at, or we have something to look at, and then they'll do the mitigation and then they will call me and I go say it's what we need and that's good. That's what we usually do. Some people call me out and they just have stakes that say this is where the house is going to be. I tell them what they need to clear. I go look at it, so that's basically how we do that. The permit is sort of a tool we use for them to actually come to us so we know that they're doing it. I keep a pretty close eye on these subdivisions but I do miss stuff. It's a tool we use for that, the permit is.

Chair Curtiss: Thank you, Cindy. Any other questions for Cindy?

Commissioner Evans: So, we leave the Condition 5 as it's written?

Commissioner Carey: As amended by the Planning Board.

Commissioner Evans: Okay, that's my motion, to approve the subdivision and leave Condition 5 as amended by the Planning Board.

Commissioner Evans moved that the Board of County Commissioners approve the Elk Meadows, Lot 46 Subdivision, based on the findings of fact in the staff report, recommended conditions of approval as amended, evidence submitted by agencies and the public and testimony at the hearing before the Missoula Consolidated Planning Board. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey: And we have an amended condition from the Planning Board about weeds.

Chair Curtiss: Actually, that was just a correction the planning staff made because it was left out. Ron wants to negotiate weed control instead of revegetate.

Patty Rector: Barbara, your motion was to approve the subdivision with Planning Board's amended Condition 5?

Commissioner Evans: Right. Thank you.

Commissioner Carey seconded the motion as clarified. The motion carried on a vote of 3-0.

Chair Curtiss: So, Patty, you're taking in – based on the finding of fact, recommended conditions – the whole thing here, except we said “approved” instead of “denied”?

Patty Rector: Correct.

### **Elk Meadows, Lot 46 Subdivision Conditions of Approval:**

#### **Roads and Driveways**

1. The portion of the existing driveway extending from the intersection of Wambli Lane and Wapiti Road on Lot 46A to the terminus of the improved driveway on Lot 46B, as shown on the plat, shall be removed and revegetated, subject to review and approval by County Public Works. The Development Covenants shall be amended to include the requirement, prior to final plat approval. *Subdivision Regulations Article 3-1(1)(F), 3-2(1)(E) and Weed Board recommendation.*
2. The new driveway for Lot 46A shall access Wapiti Road a minimum of 125 feet east of the right-of-way point of curvature for the Wapiti Road intersection with Wambli Lane, subject to County Public Works review and approval. The Development Covenants shall be amended to include the requirement, prior to final plat approval. *Subdivision Regulations Article 3-2(1)(E) and Public Works recommendation.*

#### **Fire**

3. The developer shall contribute a fire service fee of \$530 per new lot to the Frenchtown Rural Fire District for fire protection purposes. Payment of this contribution shall be verified prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Frenchtown Rural Fire District recommendation.*
4. Article I, Section 12(c) of the Development Covenants shall be amended to state that: “Fuel Mitigation measures shall conform to the defensible space standards as set forth for the State of Montana by the Department of Natural Resources and Conservation and be reviewed and approved by the Frenchtown Rural Fire Department prior to home construction.” *Subdivision Regulations Article 3-7(2) and Frenchtown Rural Fire District recommendation.*

## **Weeds**

5. A Revegetation Plan for disturbed sites shall be reviewed and approved by the Missoula County Weed Board prior to final plat approval. Article I, Section 9 of the Development Covenants shall be amended as follows:
  9. **Weed Control-** The owner of each lot is responsible for control of noxious weeds and the vegetation thereon, in compliance with the Montana County Noxious Weed Control Act, ~~and~~ the Missoula County Noxious Weed Control Management Plan and the revegetation plan approved by the Missoula County Weed District appended by reference to this Development Covenant. Owners are encouraged to contact the Missoula County Weed Control Board for more information on methods of control. Owners shall ~~renegotiate~~ revegetate any ground disturbance created by construction or maintenance with beneficial species at the first appropriate opportunity after construction or maintenance is complete. *Subdivision Regulations Article 3-1(1)(B) and Weed Board recommendation.*

## **Wildlife**

6. Article I, Section 11(e) of the Development Covenants shall be amended to include the following sentence: "Consider not using them in this area from April 1st through the end of November." *Subdivision Regulations Article 3-1(10) and FWP recommendation.*
7. Article I, Section 4 and Article I, Section 11(f) of the Development Covenants shall be amended to include the following sentence: "Keeping pets confined also helps protect them from predatory wildlife." *Subdivision Regulations Article 3-1(10) and FWP recommendation.*

## **Covenants**

8. Article II, Section 2, third sentence of "Amendment" of the Development Covenants shall be revised as follows, subject to review and approval of OPG prior to final plat approval, and may not be changed or deleted without governing body approval.
  2. **Amendment-** No sections relating to pets, garbage storage, wildlife, weed control, radon, fire standards or driveways, and addressing may be changed without prior written consent of the governing body. *Subdivision Regulations Article 5-1.*

## **Hearing: Amend Resolution No. 91-029 (Alter Boundaries of Missoula County Airport Industrial Tax Increment Financing District) – (Second of Two Hearings - Continued from November 16, 2005)**

Barbara Martens, Special Projects Coordinator, presented the staff report. At this time, Chief Administrative Officer Ann Mary Dussault joined the meeting.

This is on the modification of the Tax Increment Financing Industrial District. On November 2, 2005, the Board of County Commissioners adopted a Resolution of Intention to alter the boundaries of the Missoula County Airport Industrial Tax Increment Financing District. The Commissioners advertised for two public hearing dates. The first hearing was held on November 16, 2005 and the second hearing is being held today. The Resolution of Intention and the legal notice were also mailed to property owners within the TIF District.

On March 20, 1991, the Board of County Commissioners approved Resolution No. 91-029 establishing the TIF Industrial District. The purpose of this district is to encourage the attraction, growth and retention of secondary value-adding industry and to assist in financing necessary industrial infrastructure.

Staff is recommending, on the advice of Bond Counsel, that the boundary of the TIF Industrial District be amended to remove undeveloped and developed property that does not meet the intent of the District. The areas to be removed are for the most part zoned commercial and residential. This amendment does not change the existing zoning designations.

There is one amendment proposed from what was shown in the legal ad. That is to include back into the TIF District Lots 1 and 2, Block 9, Missoula Development Park Phase 3A. The uses on these lots, even though they are zoned commercial, comply with the intent of the TIF District. The businesses are Big Sky Brewing and Dayspring. I have talked to both owners and they have said that they would like to stay within the TIF District. A revised legal description of the district has been distributed.

The amount of taxes that a property owner currently pays will remain essentially unchanged as a result of the boundary alteration. The taxes above the base tax amount will be redirected from paying for infrastructure within the District to other areas such as the fire district, schools and the County's general fund.

If this ordinance amending the boundaries is adopted by the Commissioners, it will be in full force and effective 30 days after adoption by the Board.

Chair Curtiss: This is a public hearing. Is there anyone that would like to make comment?

Colleen Baldwin: I'm Colleen Baldwin at 4688 Bordeaux Boulevard, I live in Canyon Creek Village and I have some comments. First of all, the mailing that went out is pretty incomprehensible to a homeowner. I don't know really what the heck it means other than the fact that – because I tend to research stuff and maintain a little bit of knowledge, I have a sense that we're being removed from the industrial coverage and that will move up the City's agenda to annex us by about 8 years. I researched when I purchased the home there, I was told that it was, that the industrial tax increment was going to be in place for 10 years. That was a decision that I used – part of the research I used when I purchased my home there. If I am correct and Canyon Creek Village is being removed from this, I have a question on what is the County's responsibility to those of us whose taxes will change sooner than the 10 year base that my research originally showed. I have a really strong comment – did you guys look at this map? You can't tell the difference between the dots and the railway and I can't tell if my home is in it or not. I'm assuming it is or I wouldn't have received it. So the document is, as I said, pretty incomprehensible. I understand that there is a reason for Council to recommend legalese, but I would respectfully submit that the County has an equal responsibility to produce documents that are clear and understandable by the taxpayer. The concerns that I have, although I think I understand what it is, it's not clear in the mailings. The map is extraordinarily difficult to understand. There are no street names on it. If somebody would like, I would be happy to point out to them why I'm confused on the dots. I've spent a couple of weeks now looking at which dots, trying to figure out what is railroad and whatever else it all might be. The third concern I have, I think I made a mistake and should have brought it up in the public comments, but because it deals with my property, I had in my mind to speak about it now. In one weeks time, I received two tax billings; one was a corrected billing for a total of \$1.94 and I would proposed that – I'm happy to pay my taxes but that probably cost a hell of a lot more to mail than a \$1.94. I don't know how I would suggest that corrections be taking care of but I'm paying twice this way. But I would like to hear if my assumption is correct that Canyon Creek Village is part of this and that we no longer will be under the County tax increment.

Barb Martens: That's correct. Canyon Creek Village will come out at the tax increment district with this proposal.

Chair Curtiss: One of the things that I researched this week was, and something that we planned to work with the City Council and the Mayor on, is that affordable housing is a problem in Missoula and the houses in Canyon Creek Village are one of the more affordable areas. There is a – through the USDA Rural Development, there is a Rural Housing Guarantee Loan Program that only applies outside the City limits. It allows people to buy houses that they might not otherwise be able to buy because they can waive having a down payment and those kinds of things. We will be working with the City to help educate them on the fact that, if affordable housing is a value that they believe in also, it would be of benefit leave Canyon Creek Village out of their annexation plan for a while. I have some talking points that were sent to me and the lady from the Rural Development has said that she would also help speak with City Council and the Mayor to help them understand that it could make a difference on people being able to buy those houses if they are annexed.

Colleen Baldwin: It could make a difference in staying in them as well. We purchased two years ago and our house payments have already gone up \$50 a month to accommodate what was projected to be the taxes and what actually came through to be as the taxes. That's a pretty hefty chunk in a two year period of time and to know that the annexation maybe moving forward sooner than our research had indicated and the City goes up 12% or more; that's another pretty big chunk. It is a concern and I do believe that the County does have some responsibility. I can understand where the County found that they could not legally maintain the district as it was but that's not my fault, my problem, or those of us who live there, that is the County's problem. As a taxpayer, I encourage the County to do what they can to have a responsibility to those of us who are there, taxpayers, and to relieve that burden of increased taxes. Thanks.

Chair Curtiss: Thank you. Any other comment on the removal of some properties?

Tim Marinar: My name is Tim Marinar. I own property at 5680 Expressway. I have provided to the three Commissioners a letter in which I would like to put on the record today that deals with both the changing of the boundaries of the Tax Increment District and the new Technologies District. *"The changing of the areas and*

*businesses within the existing Airport Industrial TIFD boundaries is a breach of trust between the property owners and the County. The monies that were promised to this district will be severely reduced. Allowing non-conforming businesses to establish in the district without knowing how it would affect the existing TIFD is a very serious error. Those of us that encouraged you to allow these businesses to anchor the area may not have done so if we had been told that hundreds of thousands of dollars a year would be taken from the district later. Was it by accident or design that this property had to be removed from the existing TIFD? Looks like the district will now borrow more money on longer term bonds to fund their needs. Zoning an area within a TIFD or creating a TIFD that has non-conforming zoning is also a very serious oversight. How did this occur and are the people responsible being held accountable? Why has it taken over 4 years to come to light, possibly more than 10 years? Now this money, \$200,000 - \$500,000 annually, will go to the County's general fund rather than the district it was supposed to. The County can spend it as they see fit without going to the taxpayers for permission. No money is misappropriated or missing, just more conveniently placed by design or accident. Before the second of two public hearing concerning the possible establishment of a County Technology TIFD is held, DirecTV announces it's coming to Missoula with the help of Federal, State and County funds to include a new County Technology TIFD. When did the cart get ahead of the horse? What happened to due process? Indications are that you, the Commissioners, have already made up your mind, damn the public process, full speed ahead. With the momentum this snowball has, who could stop it if they wanted to? Why am I not surprised that there just happens to be money available for the Technology TIFD to borrow under the 'Technologies Banner.' Design or accident? The County has not preformed as promised. This may have been by error, accident or design, but at this point, I don't think you care. I think you feel that you're doing something for the greater good and you could give a damn about past promises or agreements. Trying to keep your word, even if you make a mistake. Be it leadership, the staff or hired help, there's a lot that's not right here and you guys are in charge." This just isn't right guys.*

Chair Curtiss: Thank you Mr. Marinan. Would Staff like to respond to some of the things that he brought up about – here's the letter if you need to refer.

Barb Martens: For one thing, all tax increment money will stay within the tax increment district. That money has been used to build the infrastructure. In addition, the Commissioners have put land sales money toward building that infrastructure as well to get the park moving, but no tax increment that's generated within the district goes outside of that district. If the bonds are reissued, that extends the life of the district, which will continue that tax increment money to go towards, for example, developing remaining infrastructures such as developing the park areas and this type of thing, but none of that money that's tax increment can go outside the district.

Chair Curtiss: Looking at our financials for the district, there's adequate money to continue to develop those parks and other infrastructure that was planned.

Ann Mary Dussault: Ann Mary Dussault, Chief Administrative Officer, Missoula County. I would just like to correct a factual error in Mr. Marinan's statement. He's referring to \$200,000 - \$500,000 annual that that will go to the County's general fund. Tim, I assume what you're talking about is the increment revenue that will no longer be collected on properties that will be taken out of the TIF. For the record, those monies, whatever the amount is, are distributed across a tax matrix and will go to all taxing jurisdictions. I think, quite frankly, the smallest amount comes to the County. But it is something like 50% go to schools, fire districts, the City, if any of the properties are annexed and then to the County. The presumption or assumption that this is a windfall or a money grab for the County really is the last thing that is the case.

Tim Marinan: I appreciate your clarification there. It does not change the fact that the money does not go to the district. The one question that I would like to ask staff is, when the district expires, if there is excess money in a district that has not been spent, what happens to it.

Chair Curtiss: So there are actually two kinds of money and Ann Mary can explain that. There's the land sales money and there's the tax increment money.

Ann Mary Dussault: Tim, let me talk about the increment because I think that's what you're most concerned about. If at the end of the life of the district there is money remaining in the increment, that's distributed back along the tax matrix. Just like these revenues will be distributed. Let me say something about the land sales money. Having been a Commissioner at the time we created this district – I had the opportunity to sit where these folks sit at that time – it was clearly the County's intent to differentiate between land sales money and increment money. It was clearly, and we're legally bound to spend increment monies for the benefit of the increment, those monies cannot be diverted for any other general governmental use – it has not been, will not be and won't be. Land sales money; however, were intended from the beginning to be used if money was available

for other general County purposes in order to ease the burden on taxpayers for other general County needs. For example, the County right now, in partnership with the City, is looking at the need to build a new Public Safety building. Our law enforcement is all out of space both at the City and the County. We're hoping to build a Regional Training Center with the help of the Federal government. The Commissioners have set aside \$4 million of land sales money for the purposes of building that building. That saves the Missoula County taxpayers \$4 million that would have to be acquired through a general obligation bond. There was always in our thinking a differentiation between increment money and land sales money. We looked at this as a win-win for economical development in Missoula County, as well as for Missoula County to gain a revenue source so that we can off-set increases in taxes.

Tim Marinan: I have been very clear on that point because I have been involved in this from the beginning, but the shortfall is the money that's not going to the district, that's not being replaced. It appears that the district will borrow more money, extend its tenure and we're borrowing money when we don't need to; we're not getting what we were promised. There's hundreds of thousands of dollars a year that will not be going back into that district. We don't have parks; we don't have curbs and gutters on the majority of Expressway. There is a lot of infrastructure, and a lot of things that money can be doing out there, and that is why we supported it and now you're taking it away from us. I'm not questioning the good of where the money is going. It's a promise that was made that is not being kept.

Ann Mary Dussault: Tim, I'm not trying to be argumentative. My guess is, regardless of whether or not these properties remained within the district or are being taking out of it, we would have refinanced the current bond and bonded for more anyway. It's always the nature of these districts and you can see it in the MRA District or other tax increment districts that, as you go through and you create the infrastructure and you build it, that what you anticipated doing with that original bond is not sufficient. We intended to do refinancing anyway. That's how we discovered from Bond Council that we had mixed uses in the Park – in the Development Park – some of which were not appropriate, some of which were very appropriate for the Development Park, but were not appropriately in the tax increment district. So there are two different kinds of things there. Again, I would like to beg to differ with you a little bit on your interpretation but I also want to respect what you have to say.

Chair Curtiss: Thank you, Ann Mary. Anyone else that wants to make comment? This is the second of the two public hearings so if there's no one else that wants to make comment, I will close the public hearing.

Barbara Martens: What you're doing is adopting the Resolution to Modify the Boundaries of the Missoula County Airport Tax Increment Industrial District to exclude certain parts of the land as described in the legal description.

Chair Curtiss: This would be the amended boundaries that were presented in our packets today that added those two properties back in. So it is the map that we have in front of us today.

Commissioner Evans: Tim, I understand your frustration. There are some parts of this that I don't like either. I especially don't like taking out the residences and leaving them to be annexed by the City; that disturbs me because of the finances and the affordable housing issue that I care very much about. I was confused on this matter of where the money – do you remember at the last meeting that we had out there that I was rather confused on the issue. I do recall that when we did this, it was clear to the Commissioners that the money that came from land sales would be paying us back for money that we had already put into the park and could be used for additional things of the County. But the tax increment money, as they've said, had to be used in the tax increment. We made you some promises that things would get done and I believe they will get done, because we do care about our word. But I also care about the jobs and I care about DirecTV opportunity for folks. They say, oh gosh, there's only 4% unemployment, which is a low figure, but that 4% equals over 3,000 people that don't have a job. Now, I care a lot about that. Providing a place for technology that will provide those jobs that I think are better paying than a lot of jobs are, is, I think, really important for the community. I think we can do what we promised you and we can provide for jobs. Maybe everything about this doesn't make me happy, but I think it's the best thing to do under the circumstances. If I could find a way to keep the City from annexing those homes, I would do that. End of speech!

Chair Curtiss: We're ready for a motion.

Commissioner Carey moved that the Board of County Commissioners adopt a Resolution to Modify the Boundaries of the Missoula County Airport Tax Increment Industrial District to exclude certain parts of the land as described in the legal description on Exhibit A.

Commissioner Evans: Before I second the motion, let me ask Marnie or Ann Mary whether or not it is possible to amend the boundaries without dealing with Canyon Creek at this particular day. So there's time to work with the City and see if they're willing to do something like contract sewer without providing additional taxes for these folks. Anybody got any ideas on how to deal with this?

Ann Mary Dussault: Barbara, I understand what you want to do and I think the Board has the capacity to engage the City in that conversation about not annexing so that we can utilize low income housing funds for purchase of those homes. I think, however, that's a totally separable issue that what this resolution intends because this resolution is really intending to take properties out of the district that are not qualified projects. I think for that purpose and our ability to move forward in order to refinance bonds, that you should go ahead and exclude it now. I think your point is extremely well taken. We talked about that this morning during the Administrative Meeting too.

Commissioner Evans: In looking at the map, it would seem to me that – again, I don't want to be argumentative but I would like to find an answer here. We have the district that is shown in white that is part of what we're taking out that will become the technology district. I fail to understand why and maybe you're going to tell me that the Bond Council says that residential doesn't qualify to be in the TIF. Is that what you're going to tell me?

Ann Mary Dussault: It's a non-qualified – it is not a qualified project for the industrial tax district increment and it's not a qualified project for a technology district.

Commissioner Evans: Marnie, is there another type of district we could create simply for this area that keeps it from being annexed? I just wish there was some legal way to help these people by some other district or something.

Marnie McClain: Barbara, I think you need to continue to work on it and if I know you, you will. But I think, today, you need to move in on this one that you got before you right now and continue to pursue the problem that has been identified by Bond Council. I'm sure there's an answer, I just don't happen to know what it is.

Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

**Hearing: Create an Ordinance to Establish a Technology District within the Missoula Development Park (Second of Two Hearings - Continued from November 16, 2005)**

Barbara Martens, Special Projects Coordinator, presented the staff report.

On November 2, 2005, the Board of County Commissioners adopted a Resolution of Intention to create a Tax Increment Technology Infrastructure District. The Commissioners advertised for two public hearing dates. The first hearing was held on November 16, 2005 and the other hearing is being held today. There was also a mailing to property owners within the district of the Resolution of Intention and the legal notice.

The district will be approximately 35.71 acres. The zoning will remain the same as it is currently zoned, "Community Commercial." The purpose of the district is to encourage the location and retention of technology development projects in the State and to stimulate growth by providing a financial mechanism for the necessary infrastructure.

The district will host a diversified tenant base of multiple independent tenants. Qualifying technology projects will include those where at least 50% of the sales of the business occur outside the State of Montana, or if the business is a manufacturing company with at least 50% of its sales going to other State companies that have 50% of their sales occurring outside the State. January 1, 2005 is proposed as the base taxable year. Staff has received one letter of support from MAEDC. If this ordinance is adopted by the Commissioners, it will be in full force and effective 30 days after adoption by the Board.

Commissioner Evans: One question for Barbara. Knowing that Harley Davidson does a good deal of their sales outside the State, if it qualifies, can they be added in at a later date?

Barbara Martens: The boundary could be amended in the future.

Commissioner Evans: That's what I needed to know. Thank you.

Chair Curtiss: Mr. Woodall hadn't responded to let you know.

Barbara Martens: He was looking into it but he hasn't submitted any information to us yet, but it could be.

Chair Curtiss: Is there anyone who would like to make comment on creating a technology district within the development part?

Tim Marinan: First, I would like to start off that I would very much like to see DirecTV come to Missoula. I'm not really thrilled about having an office building in an industrial park. I wish the property would stay in the industrial park if it meant rezoning it and doing something else. I have a question for staff. How many acres is DirecTV going to occupy of the 31 acres that is proposed to take up?

Ann Mary Dussault: Right now the district is approximately – it's almost 36 acres. DirecTV is looking at a site of about 12 and a half acres.

Chair Curtiss: So about one-third.

Tim Marinan: My next question would be then, to create a tax increment financing district of 35 acres, of which one tenant will occupy a third of, that I understand the County will own the building and the property – is that correct? So that one-third will not contribute to the increment district will it; is that correct?

Chair Curtiss: There's a beneficial use tax and Ann Mary can explain that they will pay into this.

Ann Mary Dussault: They've said it, there is in essence of payment in lieu of taxes called the Beneficial Use Tax that they will pay, which will equal the increment.

Tim Marinan: So it will be of equal value and it will go to the district.

Ann Mary Dussault: Correct.

Tim Marinan: Okay. Because my question is, whether the remaining district is of size to even create a viable district based on the values of the remaining acreage that you have there. That acreage may be better off left in a district that has more strength to promote business in there than that small district would. These are strictly questions. I hope DirecTV comes to Missoula. I'm just not quite thrilled about this.

Ann Mary Dussault: Could I respond a little bit? Tim, in the plan for the Missoula Development Park, which is, in essence, the subdivision here, this area that we're talking about was actually envisioned for technology purposes. I think if you look at the plan, there was discussion about the University of Montana or the College of Technology. It really wasn't until the last legislative session that the authority to create a technology district was put on the books. We actually, with DirecTV coming, saw an opportunity to finally clarify that this particular 36 acres was intended to be for a higher technology use than the industrial side. You can look at the whole park and it goes from higher industrial to less industrial and then into the commercial and then morphing into technology and then the residential. It was a good plan, it's just that two things happen on the way to implementing it. Some of those uses didn't qualify for the industrial increment and so we needed to clean that up, which the Commissioners just did. But this now is an opportunity to morph it really into the 21st Century, bringing DirecTV in, which is a technology based company to anchor it – kind of like you would anchor a shopping mall – but then that in itself can act as a magnet and the creation of the district, too, can act as a magnet for other technology startups, we hope. The main thing is whether the County retains ownership of the land or the building in the short or the long term. The increment will be captured from the DirecTV and any other uses out and stays in that district. I don't know if that helps or not.

Chair Curtiss: Is there anyone else who would like to make comment? Seeing no one come to the mic, I will close the hearing. Yes, Ann Mary.

Ann Mary Dussault: Barb and I have spent a little bit of time on the phone with Bond Council. What I would ask you to do is postpone action on this until 10:00 a.m. tomorrow morning, if you would. We will put this on the agenda for the Administrative Meeting. The reason for that is that we clarified all the language issues in the document except for one. We all know what the intent of the job credits program is, but neither Barb, nor Mae Nan nor I are satisfied that it says it carefully enough that we all read it the same. So it's not our intent to change the intent of that section. It's our intent to try to get amendatory language that makes it crystal clear what that section is all about. If you could delay action until we can get that amendment, I'm sure we'll have it ready for you by 10:00 a.m. tomorrow morning.

Commissioner Evans moved that the Board of County Commissioners postpone action on creating an ordinance to establish a Technology District within the Missoula Development Park until 10:00 a.m. tomorrow [December 1, 2005] morning. Commissioner Evans seconded the motion. The motion carried on a vote 3-0.

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