

PUBLIC MEETING – April 25, 2006

The Public Meeting was called to order at 7:05 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, Commissioner Jean Curtiss and Chief Civil Deputy County Attorney Mike Sehestedt.

Chairman Bill Carey: I'll go ahead and call this hearing to order. We're here this evening to determine whether or not to issue an excavation permit for use of County right-of-way for sewer main extension along Third Street to Magenta Meadows. This meeting was requested by some developers who are interested in doing some projects here. Before I get into that one item on our agenda, I would like to offer the opportunity for anyone to speak about anything that is not on the agenda, that's not about the excavation permit. Does anyone wish to say anything more here? You need to use the microphone. If your name is a little difficult to spell please spell it for us. We are taping this and they will be typed up so we will have a transcript of the meeting. Does anyone care to speak about anything that is not related to the excavation permit request? There are sign-up sheets circling about and make sure you are on one of them. In case you can't find one, we have some extra copies on the chair over here. With that I will ask our Chief Civil Deputy County Attorney Michael Sehestedt to very briefly give us some background on why we are here and what issues are in front of us.

Mike Sehestedt: We're here basically in fulfillment of the policy that the Commissioners adopted in response to concerns that have been expressed in various areas of the County; largely Target Range. Under state law adding road right-of-ways, which are easements made my Supreme Court decision, be used for the installation of utilities such as sewer and water lines if the Board of County Commissioners consent to that use. Some other utilities, power lines and gas lines for example, have the right as another state statute to use these easements subject to the reasonable regulation of the Board of County Commissioners. Because the Commissioner's consent is required for sewer and water lines, they amended their policy on excavation permits, which prior to amendment it simply addressed the physical aspects of safety repair, replacement of the road to provide that whenever it was proposed to install a sewer or water line in the county road right-of-way, which would have the capacity to serve six or more homes. A notice and a public hearing would be required. The basis of that was to allow people to express themselves concerning potential consequences of the use of the right-of-way for those purposes. The resolution provides that following the hearing, based on what the Commissioners hear and they either grant the permit, deny the permit or grant the permit subject to whatever conditions seem appropriate to address the matters raised at the hearing. As Chairman Carey indicated we have received a request for an excavation permit on 3rd Street, for what I believe is referred to as the Grove Street Sewer. In any event, for the sewer project essentially extending the sewer line down 3rd Street because that clearly will have the capacity to serve six or more homes; we're here following public notice to conduct a public hearing on that request. With that little bit of background, I will give the microphone back to Chairman Carey.

Chairman Bill Carey: Who would like to start?

Zane Sullivan: I live at 3504 S. 3rd Street West in Missoula. I'm here speaking in favor of the issuance of the permit. If I can take a bit of your time, there are a number of issues that I would like to address to you. My wife and my family have lived in this area since the early 1970s. My children went to school initially here at Hawthorne School. We've lived in three different homes, each adjacent to the other immediately to the west of Hawthorne School. During this period of time we have noticed that the area has changed. The area has changed with more growth, more residential units, more structures and more people. We do not find that to be an illogical situation at all. To the contrary, this area is one of the most wonderful areas of the entire valley, in our opinion. It is very close to schools. The one we're in is an excellent school. We're close to fire protection, hospitals, medical services, public transportation systems, retail trade centers. With the high price of gas today, it's very nice to live this close to major trade areas and facilities that we can all use and access very quickly and conveniently. But like everyone else in this area, we too have been and remain concerned about where is the Missoula aquifer, what's happening to it and what is the situation with future development in our community? The additional systems in the area constitute a source of degradation of the Clark Fork and Bitterroot Rivers and Missoula's sole source aquifer. The more private systems that we have in adjusting sewage and nutrients and nitrates into the system will continue to pose problems not only for us today but for future generations in all who live in this valley. As you know, in approximately 1998, Missoula County became a party to the Clark Fork River Nutrient Reduction Program. The goal of that

program was to connect approximately 50% of the existing 7,000 septic systems to the Missoula Sewer by the year 2008. I believe, if my understanding is correct, we're quite a ways behind that goal. As a matter of fact to the contrary, I think we would all agree that we may have moved a little in the opposite direction by adding a number of additional septic systems to the already overloaded and burdened aquifer. Missoula Water Quality District did an evaluation in 1996 entitled, the Evaluation of Unserved Areas in Missoula, Montana. At that time, this area in the Missoula community ranked third in the need for a sewage treatment connection. This is one of these contests that nobody wants to win. We've now moved to position #1. Why? Because the other two areas in East Missoula already now have sewer available to them so we now rank number one on the list of areas that are in need of sewer. If the sewer is not made available, new development will be more costly to the consumer and more restricted due to the limitations are noted above. One of the things that is important to us this evening is to keep in mind the difference between density considerations that are down to a subdivision evaluation, zoning change request versus a request for an excavation permit. This is a petition seeking a permit to install a sewer. Even if we only add one more home to the already existing homes in this community, it's important that that home be connected or have the ability to connect to a public sewer system. Even if we only determine that ultimately two houses per acre is a maximum density that we're going to allow, those two homes per acre should be attached to the sewer system and not further degrading our aquifer. Whether or not this community ultimately decides that 19 units are appropriate, 8 units are appropriate, 4 per acre is appropriate, that's not the decision facing us tonight. The decision this evening is, are we going to do what needs to be done to protect the aquifer in this area to prevent further overburdening. The area to be served by the sewer extension has been designated by Missoula Urban Comprehensive Plan as appropriate land for urban development. There has been a lot of historical research, study and planning given to this project. Now is the time to implement it. If we wait until a future time, it will be more expensive and we will have more degradation in the meantime. The alternative to putting the sewer here and allowing some logical infill of whatever density is decided, is to push the development further out. We're going to push out and scatter development where we do not have the availability of the school systems that we have inside. We do not have the availability of public transportation, fire protection and the other resources that the community needs and relies on. Scattered development will be more expensive to the consumer! It is not an efficient use of land. Our area falls within the Missoula Urban Service area and the adopted service area of the 1999 Wastewater Facility Services Plan update. South 3rd Street is currently scheduled for surface improvements. It makes sense to extend the sewer line now, in the right-of-way of 3rd Street and avoid having it done at a later time after the surfacing projects have already been completed and we tear up a very good surfacing project to install a sewer at that time. Some of the things that I have heard people in the community comment on about the proposal of running a sewer further out 3rd Street is that it will have an immediate affect upon people such as myself. Yes, it will. It will improve our future health and the aquifer of our community. But more importantly these people have expressed their concerns about the fact that their taxes are going to go up, they are going to be forced to immediately hook to the sewer and the City is going to annex their property. None of these concerns are realistic or true. Just because a sewer is going to come out South 3rd Street does not mean that I have to connect to the sewer as you folks well know. Yes, it is true that my property and my sewer facility is located within limited distance of the sewer line and my sewer system fails, I would have to connect to the new sewer and that makes sense! We're trying to reduce the number of private septic systems at the present time. But there is no obligation on my part just because the sewer is there tomorrow to immediately step forward and pay the money and connect to it. It is correct that if a developer wishes to put in a subdivision they may very likely be compelled and would logically be compelled to put that project on the new sewer system. If you look at the maps you can see where you folks as County Commissioners have already required a number of subdivisions in the area to plan for the availability of this sewer. You have dry sewer systems already installed that could be connected and again help with the nutrient level. One of the other concerns about having the sewer there is that the City will immediately annex everybody out here and our taxes will go up. I don't believe that is true either. We have a couple of logical ways in which cities can annex property; one being the wholly surround concept. This is not a wholly – 3rd Street to my knowledge run pretty much east and west. It is not going to accomplish a wholly surround just by running the sewer out 3rd Street. Yes, at some point in the future I would not argue that the City may, and it could do it at any time, attempt to annex areas further out than what the city limits are currently. I don't know that that is an illogical event for the services that we expect to have at some future time. I do not believe that it is something that is going to happen tomorrow. Again, I would like to comment that this evening's request for you folks to consider issuing an excavation permit is not a density determination. That will happen when you make your review a proposed subdivision projects when request for zoning changes are brought before the appropriate entities, that is the time to determine what will be appropriate densities for

given areas. Tonight, we are looking to improve the quality of life for existing folks and our future people. I ask that you please approve the request. I would also like to present to you and leave for your consideration, a letter that has been given to me by Erma and Jim Regan. These folks are owners of property at 303 Tower Street, Missoula Montana and they are also requesting that you grant an extension permit.

Chairman Bill Carey: Thank you, Mr. Sullivan. We were given those letters.

Ed Taylor: I live at 3920 Sun Rose Drive. I didn't come to speak in particular but let's think outside the box for just a minute. The well versed gentleman who just spoke said a couple of things that kind of bother me. One thing is, septic systems do work, they've been proven to work and they don't degrade the biosystem or anything else because for one thing the septic system actually contains the solids, any water or nonsolid material actually comes to the surface and does not go into the ground water. I have an argument with him there. It evaporates; it doesn't flow into the aquifer. Number two, I think he's really wrong about the actual cause of the density. If the sewer does go down the street, if I'm not mistaken, the developers can ask for bonuses or whatever as far as any of the developments. So I have a bone to pick with that. From what I understand, the request is to go down as far as Tower Street, is that correct? I really find that hard to believe that you need to go that far. We need to go down to Magenta Meadows, that's all well. At one point, I didn't make the meeting where you approved that, but I thought at one point right before the end – I'm diverging a little bit – I had heard that there was going to be 19 homes, money into a park –

Chairman Bill Carey: Mr. Taylor, it was done by the City Council and not the County Commissioners.

Ed Taylor: Okay. I didn't have any input on that, eh? Sorry. We're talking about the fact that the development – I don't really think we need to go down as far as Tower Street. I see by the maps that there are a number places that are requesting sewer. I don't know if that's because they're future developments or their independent people that want to be on the sewer. There are a number of people here in the audience that have better numbers on this stuff than I do but they have been testing wells east of Reserve Street and to the west of Reserve Street. Some of those numbers have been played with from what I understand. Some of the test wells on the west side of Reserve Street are shallower than the ones on the east side of Reserve Street. I don't think it's necessarily giving us a proper level of nitrates and phosphate content whatsoever. Furthermore, the actual – as far as I know, I'm not an expert on that – as far as I know the water treatment plant is contributing e.coli into the river in the wintertime for sure. It has a permit to be dumped in there. I don't know where we're at for capacity on the water treatment plant. A couple of years ago, it seems to me, even after the addition or the renovation of the water treatment plant, it was discovered that they were up to about 75%. Since then, we've had a lot of building out on Mullan Road, some other developments. I'm wondering how much capacity is left. With another over 8,000 homes coming into Mullan Road, are we going to be approaching on the fullness of the treatment plant at that point? Yes, we don't have to hook up just because the sewer goes by. But you'll find a lot of people will because it is cheaper at that point to run a stub line that it would any other time. I have a bone to pick with him on the annexation issue. It doesn't necessarily have to be totally surrounded at one point but as people request sewers around the area then they can be totally surrounded and can be annexed. I've been there before. I don't particularly care to be annexed in the County and I've been through that process in the River Road area. Some of you have heard me chat about that before. I really don't think it's a degradation of the aquifer. There are other things – let's go outside the box even further. There are other septic systems out there that are way above the water treatment plant as far as nitrates and phosphates. There's one that I think that actually processes 99% of the phosphates and nitrates; with the sewers, that doesn't even come close. Why don't we think about – I'd actually like to establish some areas out here as maybe test systems? It would be great for the state of Montana. It might be interesting for the City to think a little differently. Thank you.

Will Snodgrass: I'm the President of Missoulians for Clean Environment and I'm the President of the Rattlesnake Coalition, which has brought suit against the City of Missoula, the U.S. and the United States EPA. What this gentleman just said about advanced onsite systems is very true and in fact it's echoed by our own County Commissioner Evans a few years ago who herself recommended the advanced onsite systems. There are some laws involved here that are supposed to be followed when developing wastewater facility projects. The City of Missoula, which owns the sewer system has violated these laws, along with the Montana Department of Environmental Quality and the United States Environmental

Protection Agency. The environmental assessment that covers this entire big plan that is supposed to protect your health, your welfare and your economic wellbeing, your social economic status in your neighborhoods was unsigned. No one signed the document. The National Environmental Policy Act, which is 42USC4321 and a CFR regulations for that, which are 40CFR1500 (inaudible), really clearly spell out what this City and the County have failed to do. That's why they have been sued three times. They lost on the first round having violated the citizen's rights to participate by conducting perfunctory meetings. That federal case is under appeal in the 9th Circuit and our organization just filed a temporary restraining order against the City on the 14th to stop them from doing these types of projects. A little bit of history on this, back in 1974, the U.S. EPA issued a manual for the preparation of environmental impact statements, which for a project even of this size, I think should be done. Bearing in mind that the City of Missoula did an environmental impact statement for single intersection here. On Page 32 it says, if you live in a marginal air shed, Missoula Montana, you must pay particular attention to the impacts of sewer upon air because sewer causes road building, which causes a degradation of the air of the basis of increased traffic. The subsequent study, an EPA study in 1978 called the Growth Inducing Effects of Wastewater Facilities, it says on Page 9 that the EPA determined that it is not the developers who pay for the sewer but it is the residents who pay for it. 201G5 of the Clean Water Act says you cannot get federal money unless you evaluate the advanced onsite systems that this gentleman just referred to. In order to meet the letter of the law, the City of Missoula, I think rather secretly conducted a test of the Rose Crest System which is the system that this gentleman referred to. They withheld from the public the results of that test, they withheld the results of that test from Public Works Committee and from the City Council. A subsequent set of tests done on the same system by Osprey was also subject to the withholding of its title page, which said: This is very exciting news! These advanced systems work very well. Mr. Steve King pulled the cover letter off of that. I also called pages from the report and then went on to mischaracterize the report. 201G5 says that you don't get money unless you look at these advanced systems. Mr. Carlton and his crew looked at the system, met the letter of the law but they didn't tell the public what they had done. We're the losers in that. On May 5th the Montana Department of Transportation wrote to the City and the County informing them that they should stop all development in Missoula because Missoula had failed to plan for traffic, which brings us back to the original 1974 document and the 1978 study that was issued subsequently. I disagree wholeheartedly with the first speaker that says that new development will be more costly if we don't do it now. There is no data to support that whatsoever. In the Shin Yang hotel in China one of the most modern hotels on this planet the wastewater treatment facility system sits in the corner of the basement. It's a huge hotel. It produces very little sludge. The water coming out of that advanced onsite treatment system is cleaner than the river water passing through the town. Sweden has gone to advanced onsite system along with much of Europe and Korea. Regarding the river and what our wastewater treatment plant does to it, the United States Geological Survey and the EPA have both agreed that 1/3 of the rivers in this country are unfit for human use because of sewer plants, largely. In 1997, the City of Missoula issued what's called a Contract Change Order or Amendment. They had been informed by the engineers Brown and Coldwell for the 1999 Plan that the sewer plant would not meet the water quality standards; that's February 6, 1997. That was almost a decade ago. The City paid the contractors \$95,000 to begin pointing the finger elsewhere but the contractors very wisely covered their own backsides in this by putting into the Contract Change Order the language that says, "Wastewater Plant will not meet target nitrogen and phosphorus requirements in the future even with advanced treatment upgrade to biological nutrient reduction, which you pay \$20 million for and with a significant capital investment." People have also not been told that the next planned upgrade for the sewer plant is slated at \$23 million. Now with the original \$13 million for this upgrade grew to nearly \$20 million and the \$23 million upgrade will grow to \$35 million and the \$134 million for the implementation of this plan will bloom to over \$200 million. Of course, you know who will pay for it. In our exhibits in our law suit, we found that Mr. Bruce Bender had withheld from the public critical documents that should have been placed into the public review copy of the plan so the public was never given the benefit of seeing that Contract Change Order than I just referred to. They were not allowed to see any comments of the City Health Department, which itself has now admitted that onsite systems are a solution, was not allowed to see the comments of the US Fish and Wildlife Service. In the comments of the Water Quality District it said, "No more expansion of this wastewater treatment system." Our own people, we found altered documents, backdated documents, falsified documents, documents that were withheld. The mixing zone for this small river is far too long; it's illegally long. The documents that were signed by the County Commissioner's office was sign by Ann Mary Dussault, she, in getting around the endangered species act, referred back to documents lost from 1993 when in fact she was signing paperwork in 2003 that should have referred to the Endangered Species Act of 1997 at which time the Bull Trout was listed. Finally, with respect to pushing out the developments, poor people are usually crammed into the center of cities. Middle income people are

being crammed into the center of cities. Rich people live on the outskirts in gated communities, that's how it works. That's how it works in South Africa and that's how it works here. I think that the sewer scheme is designed to do a number of things. It extracts money from tax payers. It puts the large sums of money into the pockets of engineers who in Montana I think are getting 15 or 20% for engineering services, no competitive bidding, while the rest of the country is paying 5% for engineering. This white pipe that they run by your home can force you to sell your home or subdivide your home. And the Zane's assessment on their 5 acre horse pasture was \$43,000. You either sell or you subdivide. That's how this scheme is being run. Mayor Kadas or Mayor Kemmis years ago said, well if you don't like it, you can't pay, we'll put a lien on your home. The sensible method of dealing with waste is very simple in today's world. You practice source reduction, you are careful of what you purchase in your home and what you put down that pipe. You do not lay any more gravity main sewers that are incredibly expensive, labor intensive and material intensive. You put advanced onsite systems in your home that can be retrofit for as little as \$2500 and it will out perform that wastewater treatment plant, sometimes 2 to 1, such as the Rose Crest System that Mr. Carlton here and his people didn't tell us about. These Public Works projects, in my experience, constitute a massive, expanding Public Works fraud I believe at a minimum, \$30 million per spreadsheet is disappearing through the cracks. I talked to the Federal Investigator three weeks ago about this who said, "Try 40%." 40% of \$300 million on-going in this state is \$120 million. Thank you.

Carol Anderson: I live at 525 Tower Street. I tried to get some thoughts together as I heard some things. As I understand it, the main question is, are we going to allow the City easement to come down 3rd Street to Magenta Meadows? In my way of thinking I think it is a little bit carts now in front of the.... the horse is now is the wrong spot – the cart is in front of the horse. Due to the fact that I think that maybe we should have had this discussion before we ever said we are going to annex before we ever said. I think it's putting the County/City relationship in quite a conundrum because we like to all get along. So these questions came to mind for me. Is our City free of septic systems? I'm going to guess, no. If our City is not free of septic systems, are they all in compliance? Again, I'm going to guess, no. If we have to reach a percentage of how much effluent is out there, do we get there by adding more sewer so that our percentage comes down and we're in compliance? That's the first thing I thought of. The gentleman before me said that these fancy septic work real well so that says to me, it sounds like it is a good alternative. We've been driving down 3rd Street, it's in really bad shape and I can understand how we don't want to put money into 3rd Street if we're going to see it torn up. But that also says to me, 3rd Street doesn't end at Magenta, 3rd Street doesn't end at Tower. If we put that sewer in, are we going to pay until there? Or are we going to hold off? So that was another one of my questions. I had a third one but I have to think a minute. I guess what I would think is, if these people have been annexed into the City and now they're saying, "Look what we've done. Look what we've got. Look at what you're going to do to us if you say, no." But I think they possibly should have asked that question first. Is the prevailing – wind going to be, yes, we're going to go ahead and let them put in the sewer. Just as a county resident, if the sewer were there, I think I would like to protect the aquifer but I'm not convinced that leaving my septic that is in good shape would be the way to do it. I would like to urge you to vote, no, at this time. Thank you.

Rob Braach: I'm one of the four investors in the Magenta Meadows Subdivision and one of the applicants, along with 25 other petitioners that have signed onto that petition requesting the sewer extension project. In fairness to the lady that just spoke, proposed a question perhaps it seems like the process was a little bit out of kilter. Respectfully I would say that we are following the process that was laid out by City and County regulations. In December 2004, the City had come forth with the proposal to extend sewer, a much larger project all the way out to Target Range. Certainly some of you are familiar with that. The County Commissioners meeting in December 2004, there was a good deal of opposition to that. No specific proposals, other than the City's plan to extend the services and the County Commissioners considered it and turned that proposal down at that point in time. So the process then left us with our property for developing it to approach the City for a contract sewer services to see if they would then extend for our project, go ahead and do that. Now we're fully circle back here. So we have – the City would have done that. We're certainly considering that as an option but I've looked at the policy and the revisions to it and came forth with this County Commissioners to request, this public hearing and the extension of this policy to be able to see if we could get the right-of-way permit to be able to extend the sewer. If you might see it, it's absolutely on a very reduced scale. I don't remember how far out the other one was, Craig Kaprera with HDR will be here to make a better proposal, a pitch on the overall scope of the project, but this is very much a reduced project just extending a little bit west of 3rd and Hiberta, down to Tower Street, all the properties that are in orange, again, there are 25 properties probably representing in the neighborhood of a couple

hundred or more acres total that are in favor of this sewer project. I know there are a good number of people that have approached us about being able to acquire a lot when Magenta becomes available. From the development perspective, I feel much more comfortable with knowing that people that might be building a house there are going to be able to hook up to the sewer rather than some kind of an onsite septic system that requires maybe, a great deal of maintenance. Many of these are – from what I understand – are fairly maintenance intensive or can be. Just from my perspective and what's allowed right now, we're not looking at onsite systems. We think that it's more appropriate for this to be a sewer property. Again, we have 25 people that are in favor of this project, certainly there are some people that are in opposition to it but it seems to be an appropriate extension of city services in a fairly reduced area for parcels that are requesting those services. With this sewer also comes the potential for extending water. Mountain Water has expressed an interest in a group of developers that are going to look to bring the water in as well, which is a positive thing to the public environment, I think, for fire fighting and for water supply, etc. We are the applicants. We have a number of people who would like to speak tonight but out of brevity may not. I am going to ask for a show of hands. (Inaudible) favor of this project tonight, I would appreciate a show of hands. Thank you very much.

Kari Britton: I live at 750 Tox Drive. I am also the president of the Orchard Homes Association which is loosely knit group, that is becoming more and more structured as time goes by, of citizens in this area that are concerned about the general development and welfare here that currently live in this area. I guess our biggest thing is that there is just a lack of development between the City and the County. Being that this is County ground at this time and the City has so much impact on how things are going to be developed. The Comprehensive Plan of 1998 says 2 houses per acre. It isn't even 10 years old but it is sort of put to the wayside but used by the developers when it's advantageous. As far as – so we believe that there should be a general plan where the open space is going to be, where the parks are going to be, and where the development is going to be. Right now, there are developers – it is eventually going to be run – the sewer is going to be run, we have no doubt, but we want to plan and process prior to this development being – this area being totally developed as is at the rate it is going. As far as annexation, when we get annexed by the City, this County ground, we lose a lot of freedoms that we do have. For the people that have horses, people that have dirt bikes, the people who burn or the people that have large gardens. The thing is, once we develop the areas where the Mongs do all the gardening, which is really our farmers market; we lose a lot of ground. There aren't many areas in this part of the country or this region that have 24 inches of top soil so we will lose some horticultural heritage, I do believe. As far as taxes, taxes will go up that's a given. They have gone up and that will happen. We do need to think about our schools with the future development. We have to think about impacting schools heavily. We need to think about traffic. There is a lot of things that we need to think about prior to getting this major okay. So at this time, I say no to this petition to give them the right to go on 3rd Street. Thank you.

David McQuinn: I live at 4320 North Avenue. Too much. Too fast. I have a question; how far? I hear Tower, a mile past Stone. How far is this thing going? Where is it going to? Is it going to Clemments?

Chairman Bill Carey: It's going to Tower, I believe.

David McQuinn: Does somebody have the answer? Where is it going to? Where's the map? Almost to Clemmons – half way between Tower and Clemments. Okay. If Richardson wants to do a development and this one has been okayed then what the heck, right? Just run it all the way out there. This will set precedent for something like that.

Commissioner Evans: I'm sorry, would you ask the question again, David. I was looking at the map.

David McQuinn: If Mrs. Richardson, we all know who she is, wants to develop her property and have sewer. After this project has been approved, if it is, then precedent will have been set and there will be no reason to deny having the sewer run out to the Richardson property.

Commissioner Curtiss: We would have to have a public hearing on that.

David McQuinn: Okay. I think it's been said by one or two of these people; there's no question that we have a case of the cart before the horse. We need to deal with what's going to happen in Target Range and Orchard Homes before we start running sewer out here, which will determine what happens in Target

Range and Orchard Homes. So that has to be done first before the sewer gets put in. There's no question about that. We cannot be driven by the developers. The people who live here have to decide and be involved in that process. If the sewer goes in then they have lost. So I propose, at this time, for everybody to get real and lay their cards on the table and let's have the City of Missoula go ahead right now at this time and put together a proposal to annex all of Target Range and Orchard Homes. Right now. Let's have the debate and get this darn thing over with and be done with it. I think that's the only solution to this. If you approve this sewer going in right now, I promise you the next step will be Richardson and we will have the wholly surround and everything else. There's no question about it. The people who live out here will be powerless. There is no doubt. As an ending note, I would suggest that Zane not allow his dogs to swim in the river behind his house for nine months out of the year because it is full of fecal chloroform because the City doesn't treat it.

Libby Langston: I live at 309 Short Street. For starters, I would like to say that I didn't know about this meeting until about an hour and half ago and I had plans tonight but I cancelled them so I could be here. I have a problem with that because I didn't even know. For instance, when a developer over here asked how many people in here are for the sewer, it's not really fair when many of us who live in the neighborhood didn't even know this meeting was happening. It's not like it's a democratic situation in here tonight.

Commissioner Curtiss: It was noticed in the newspaper two times.

Libby Langston: Well, I didn't see it. I am part of the Orchard Homes Association and we've been in touch with the OPG quite a bit and I thought that would help us at least try to keep up with things better. The sewer – all I know is that I don't want to have this maximum possible density in every little square inch of Orchard Homes, which is what seems to be happening or it's what's being proposed repeatedly as you all know. We're being overwhelmed by an on slot of multiple proposals of high density development. Obviously it conflicts with the character of this neighborhood. I heard a man behind me say that these people just can't handle change. Well, I think that's a little extreme to make that kind of comment. We're not against development; we're just against the idea of trying to pack in eight houses or whatever per acre. If the sewer comes in here, these developers are just going to do the best they can to have the smallest yards. Even on Short Street at the end of Renee Court, we have a shared driveway – they have shared driveways. Everybody there has a big pick-up truck. I can tell you that if there's a fire at one of those houses, the fire engine is not going to be able to get around that circle because there are so many vehicles parked on the little street because they can't park in the driveway since they share the driveway. Anyway, there are a lot of little things like that that are happening. The truths of these overly packed developments. I'm not actually sure how I feel about the sewer myself but I do know that I am against this high density development. I know that I like my well water, I know that. I'll just leave it at that. Thank you very much.

John Peterson: I was born and raised here in Missoula; lived here my whole life. Currently I live at 4309 Mount Avenue, which is directly across the street from the Richardson Ranch. I've taken the unpopular stance in that I am for the sewer development in Target Range. I can image that I'm probably the only guy out there that feels that way. I don't see this as a sewer issue or a water quality issue, I see it as – when the sewer is there then you're able to make a denser zoning ordinance and you can put more houses in. That's what people seem to be afraid of. I don't exactly know why. It's just houses. It's not – we're not building restaurants and strip malls and things that draw people that don't live in your neighborhood to your neighborhood. They are building more homes. I grew up here. I grew up when there was nothing here. I remember when they built these schools. I remember when this one burnt down. I'm well aware of what Missoula used to look like. It's not going to stay that way and our taxes are going to keep going up no matter if you have a sewer or not. We are going to continue to pay more for everything. It seems to me that people – everyone is for development, you either grow or die, but just not in my neighborhood. I don't think it's fair to a person like Richardson's or Mr. Braach or any of these other people who own properties, as long as they're following the process; the City ordinance or the County ordinance, to develop their property. I'm sure that the Richardson's would be way better off developing their property, monetarily, than they ever have been raising cattle. That's all I have to say. Thank you.

Becky Weaver: I live at 2640 S 3rd Street West. In addition, my parents live on Short Street and I grew up here so I have been living in this neighborhood practically my entire life. I know tonight some of the people here have used the word "developer" a lot. In a typically negative connotation about how the developers are coming into this neighborhood and forcing high density housing on people who live here. I don't believe

that's a necessarily a true perspective of what's going on here. I don't necessarily believe it's something that should be tied to an excavation permit for sewer. We're talking about extending sewer. Mr. Sullivan, I think, kind of summed up a lot of the water quality and other issues related to that perspective on the sewer. There is zoning here. There was zoning when I bought my house. There was zoning when my parents bought their house. The zoning has been here for quite a number of years. When people come in to do development they are looking at zoning. It's a matter of law when they file a zoning or they propose to change it and go through the public hearings. I don't think this is an appropriate venue to be debating how we control density. I think we should be looking at where we are located in terms of services, looking at what your basis is for doing this excavation permit, which is to allow the people who requested it to go forth with the developments they have done under their zoning or the changes in zoning with our water quality issues. I don't think that everyone who lives in this neighborhood is opposed to this excavation permit even if they're not a developer. Thank you.

Jim Carlson: I'm the director of Environmental Health with the City/County Health Department. I would like to basically cover two areas; one dealing with the plans of the City and the County over the past decade and the fact that this application is appropriate to that long-range planning and to talk briefly about some water quality issues. In 1998, the Missoula Urban Comprehensive Plan was adopted. It provided for establishing an urban growth area, the west Reserve area is inside that urban growth area. The Growth Management Task Force recommended that in the draft, the wastewater facility service area be the same boundary as the urban growth area. That was eventually accomplished. In the 1996 Missoula Transportation Plan, the west Reserve area was designated as residential infill and projected traffic growth was done on that basis. The Urban Growth area, which is the same as the Wastewater Facilities Plan service area, was subsequently adopted into the 1998-2000 Missoula's Wastewater Facilities Plan Update. The 1999, Transportation Plan. It's also referenced in the Missoula City County Health Code in the definition of our regulations, that area says that 'the purpose in the Missoula Wastewater Treatment Plant service area requirements in those regulations are to place landowners on notice that permission to use wastewater disposal in this area is temporary and is intended to be replaced with discharge to the Public Sewage Treatment Plan.' The Missoula County Subdivision Regulations also incorporate that urban growth boundary as do the Missoula County Zoning Regulations adopted in 2001. Finally, the Missoula County Growth Policy adopted in 2002 describes urban growth areas as areas known as urban growth boundaries, distinguished by the physical area surrounding a community where growth is encouraged and beyond which growth is limited or discouraged. Typically urban growth areas are created by considering the following factors; population trends, buildable land inventory, efficiency of public infrastructure development, and the protection of rural lands outside of the community. Urban growth areas are usually delineated based on where development is anticipated and preferred within a certain period of time, usually 20 years. Urban growth areas can be complimented by establishing zoning within and outside an urban growth area. Missoula County and the City of Missoula have adopted an urban growth area that's based on the location of sewer and other urban services. The Missoula Urban Transportation Plan Update adopted in 2004 also includes that urban growth area says, infill development should be a priority because it completes the urban fabric of the community and in most conditions results in lower levels of impacts to growth and vehicle miles traveled and vehicle hours of travel. Getting onto water quality; the west Reserve area currently has about 1,941 acres in residential lots with 2,411 dwelling units and about 375 of those units are currently on city sewer west of Reserve Street. At 200 gallons per acre, those 2,411 dwelling units dispose of approximately 482,000 gallons of sewage per day into the aquifer which is also the water supply for this area. As has been stated earlier, the west Reserve area work done by the Water Quality District several years ago was the second highest priority area. We have of course accomplished sewerage in the highest priority area of east Reserve and also the one behind it, which is East Missoula. There is work well on its way to accomplishing priority five, which is the Rattlesnake. Public water and public sewer are essential urban utilities. This area has been designated as an urban growth area, it's adjacent to the City of Missoula and it has the function of separating our waste water from our drinking water. The need and the logic for that, I think, is apparent to everyone and it's a technology that's been used and found to be necessary in urban areas throughout the world. Even if public water was supplied in this area, however, the impact of sewage on the river would still be a problem. We have a problem in the Clark Fork as you're aware of. We violate nutrient standards. There's success of algae growth in the river to different types of plants upstream and downstream in Missoula. The net result is significant, the environmental impacts on the river and the potential to impact fisheries and fisheries reproduction as well as the general enjoyment of the river by the public. We don't have to be an aquatic scientist to realize that when the Clark Fork River is covered by several feet of green slime as it often is in the middle of the summer; that's not a normal condition for a Rocky Mountain trout

stream. It's one that we all, in the Clark Fork Basin, have to work towards fixing. Continuing to connect existing septic systems to sewer in Missoula is essential to accomplish our obligations under the voluntary Nutrient Reduction Plan for the Clark Fork. In conclusion, every major plan and land use regulation adopted by the County and the City over the past six years has designated the west Reserve area as an Urban Growth area. Urban growth designation of the area is an appropriate method for managing and mitigating the impacts of growth in the valley. Due to its proximity to the established urban area, further urbanization of the west Reserve area is inevitable. The Wastewater Treatment Plant now removes a large percentage of nitrogen from the effluent of all homes and businesses connected to this city plant before it discharges to the river. It's been a tremendous, beneficial impact to the Clark Fork in removing that nitrogen. Conventional, individual septic systems do not accomplish that removal. We've heard comments about advanced treatment systems; yes, they're becoming available. We're starting to use them on small community systems but individual systems have a number of problems because they're advanced treatment, mechanical systems that require pumps and aerators and equipment that is not normally in a conventional gravity septic system. That requires a significant amount of maintenance. Throughout the country this issue is being worked on. We need to figure out ways in institutionalizing methods of maintaining these systems so that they can work on single household basis as well as their work on a small community or large town basis. We aren't quite there yet, we hope to get there and when we do we'll be adopting requirements for septic systems outside of the wastewater treatment plant service area. It will be difficult if not impossible to meet our obligations of the VNRP without installing public sewer into this area. Using the aquifer as a water supply and sewage disposal structure as this area urbanizes and gets more and more dense is not a viable option in terms of public health. Ground water and velocities in this area are quite high. The (inaudible) from a septic system rather than spreading out quite a lot tends to be fairly narrow in its downstream aspect. That's a good thing that the relatively narrow stream coming out of the septic system isn't hitting your well; however, because the ground water moves so fast, some small particles like viruses and some of the smaller parasites, can move quickly enough to enter other wells. As the area urbanizes and gets more dense that will be an increasing problem. The failure to plan for and install public sewer and water has resulted in unnecessary growth consequences and subsequent excessive installation costs in many, many cities throughout the world and we would hope that as this area urbanizes that we get ahead of that issue somewhat by installing sewer at the present time. For all of these reasons, I urge you to issue a permit for the city to install this sewer.

Chairman Bill Carey: Jim, Commissioner Curtiss wants to ask you a couple of questions.

Commissioner Curtiss: You seem like a perfect person to answer a couple of things that were raised and you answered several of them. Can you talk a little bit about the test wells in the area?

Jim Carlson: Well, all of our test wells – just the ones owned by the Water Quality District, are installed to be a certain distance below the top of the aquifer, the saturated zone. So yeah, they do vary in depth but they're intended to be as uniform as we can get them with regard to how far below the surface of the water table they are.

Commissioner Curtiss: Okay. The other one is, the capacity of the Wastewater Plan with the new –

Jim Carlson: The capacity was recently increased from 9 million gallons a day to 12 millions gallons a day. It's my understanding that they're still at 8 something so they haven't started to really bite into the new hydraulic capacity that was added when they built the nutrient removal system.

Commissioner Curtiss: The last one is, are there still some septic within the city limits that haven't been connected?

Jim Carlson: Yes. Of course the largest number of those are in the Rattlesnake. There are scattered septic systems throughout the city. If I remember correctly on the order of 1200 or 1300 scattered systems and many of those are connected as those septic systems fail. When the utilities' available, we require that they connect rather than repair their system. As a matter of fact, just this winter, a house across the alley from my house was connected to sewer for that very reason. It was probably built in the 40s.

Chairman Bill Carey: Jim, I thought I heard you say earlier on that over 2,000 residential lots in the area were discharging more than 400,000 gallons per day of sewage into the aquifer; did you mean into septic systems?

Jim Carlson: Into the septic systems and then most of the fluid that goes into the septic systems, whether they are drain fields or seepage pits, leaks out of the bottom of those drain fields and down into the aquifer, which is the water supply.

Chairman Bill Carey: Thank you. Folks, we have about an hour to go before they say we need to pack up and be out of here by 9:30 according to the school's rules.

Laura Taylor: I live at 3920 Sun Rose Drive. I think this gentlemen just shot himself in the foot because he was talking about the Rose Crest Systems that are the onsite systems. He said that they were very high maintenance because they involved pump systems. It's my understanding that the city sewer system right now is on Reserve Street? If we put the sewer down 3rd Street – it's a gravity flow system, correct?

Chairman Bill Carey: With pumping stations.

Laura Taylor: With pumping stations! AH! Got it.

Chairman Bill Carey: A pumping station.

Laura Taylor: So that would require maintenance and electricity and all that stuff that would be required from an onsite system. Same thing, I don't see –

Commissioner Curtiss: I think the difference that he was referring to is if an individual system for an individual house that most of us don't have the expertise to maintain.

Laura Taylor: Hmm.

Commissioner Curtiss: That's what it is.

Laura Taylor: I would take issue with that. Yes, I would have to take issue with that because if you were going to install a gas furnace, you would have to know how to run it.

Chairman Bill Carey: I took it more to mean that instead of having responsibility for maintaining a single treatment system; the other option might be to maintain 2,000 systems.

Laura Taylor: Okay. Well, I still think that his logic is a little skewed on that one. Let's get back to what this other gal said about the fact that we do have zoning in place. We do have zoning in place. When a developer comes in to develop five acres, they have to go with the zoning that's in place. Now if the sewer comes down and it's connected and all the sudden we're totally surrounded then boom, we're in the city because we have city services and we have to pay for them so we have to pay city taxes. As soon as we become city the zoning goes away. There goes our safety net and whoever is thinking of selling the property and dividing it however they want to, they can do whatever they want because there is no more safety net of 2 houses per acre, 4 houses per acre. They can put whatever they want in there. I am a mother. I'm very concerned about my family who lives right here in Missoula. I like to make sure that they are fed so I grow a garden. If there were enough gardens in this town to feed Missoula we wouldn't have to worry about all this extra gasoline being spent to truck our food in. I don't see how having all this density can allow people to grow their own food. I think that is a very real situation that we have out in Orchard Homes, Target Range area. People are growing their own food. They are providing for their families, they provide them of their neighbors, and they provide for the community. This goes away with too much density. We don't have that capability. That's the part of recreation, as far as I'm concerned. Maybe somebody else looks at it the same way. Oh, well. Thanks.

Commissioner Curtiss: While someone is coming up, can we have Mike explain; when the City annexes what happens in the zoned area?

Commissioner Barbara Evans: I think he wants to wait on that.

Delmar Jacobson: 3443 S 3rd Street West. One thing, I have lived there since August of 1952, so I've been there for a while. What I understand, they are going down to Tower, which would be just above me right there. There are things that I would like to know, one thing; is the County Commissioners actually trying to take care of our County people or are they all working for the City? Because the minute they get city sewers in, whoever is going to be paying is paying the City, right? I hate to say, we've battled the City since '52 so it's kind of a normal deal. I have lost livestock, we always have. One thing I'd like to know is how they can still call this Orchard Homes. The developers have come in; they've done away with the gardens, the orchards. I'm about the only one that has orchards and gardens yet, and livestock. The trouble is our County Commissioners don't seem to always work on our side. They work 2/3 of the time for the City. Sorry. I was County Commissioner for Park County and also – two other years in our county and at that time, before we could even get voted in, we had to be out in the county; we couldn't be in town. That was the rules. Believe it or not, there's quite a few of the counties still that way. There are things that I just mentioned. One thing else, how long would they go if they go to Tower that they're going to go about a block and a half to me down there. You know what it would cost...because I have two homes right there and ground. I've been to these meetings. I was here a few years ago when we had that petition against it. I think you have to records on that. At that time, they never mentioned when this was going on, what it's going to cost for how many feet down the street. Nobody let us know anything about that. But the other deal when we had that petition and we had enough signatures on that. How many feet if they do go on to me – those going down Tower, what is it going to cost per foot to go on by your property? Nobody explained that. They had it all real good on the other one they were trying to get it done.

Commissioner Curtiss: The proposal is not going to charge the people as they go down the street. This isn't like an RSID to charge you for the pipe. The City is putting in the pipe. Connection to it would be –

Delmar Jacobson: We're going to pay the City for each place they're going to put it through, right?

Commissioner Jean Curtiss: The connection you would pay, yes to connect to it.

Mike Sehestedt: No, no, no. This is not being constructed using an improvement district methodology. Essentially, the City is going to construct it and then will cover the construction costs. If you don't hook up you won't pay for the pipe. If you do hook up there will be a connections fee along with the service fee. Whether this is remunerative or a clever idea, I have no way of knowing. But until you decide you want to hook up, your property won't be charged for the installation of this pipe. At least that's my understanding.

Delmar Jacobson: Okay. I just had some questions that I would like to have answered.

Chairman Bill Carey: Thank you. Who else would like to speak?

Sue Mathewson: I live at 1012 Tower. I guess I'm here because in 1994 the County Commissioners thought about selling part of the Equestrian Park and when I came to the commissioner's meeting and asked how many acres, I really didn't find an answer to that but I was told that the carrying capacity study showed that if you live on the valley floor and you have a half an acre or more that a septic system with a drain field, just a common drain field nothing fancy, is perfectly adequate. Being the type of person I am, I spent a lot of time in the University Library and I read every water quality study that was done. I went to Helena a few times because I got concerned about annexation. I also went to the Water Quality Advisory Committee meetings overseeing Water Quality District for several years. When the engineers were coming over here to make a plan for the expansion of the Wastewater Treatment Plant, I was most disappointed with that because prior to it going public what the engineer said was so they proposed five satellite systems around the city that would prevent any sewage going into the river. I do not understand and I will never understand why this community still puts its waste in the river. We've talked about the aquifer; the aquifer may get a very minor amount of effluent from the drain fields but it gets a very major amount of raw sewage from that treatment plant – so called treatment plant. Prior to Costco being built, there were overruns there that made over 12 million gallons a day. I walked away from the process and looking at any more studies because it makes me sick. Some of you – all of you know me. I'm on the County Park Board, I try to do good stuff here. I love Missoula. I love my neighbors but I swear to God, we have 12 acres, go ahead, buy it from us and I will go over to Idaho and Washington and I'll find people in the other states to sue over the Clark Fork because it's not right. You can't keep dumping in the river. Developers can develop without the sewer. This thing about building housing so dense, it's not affordable. It makes the land prices go up. It's getting more and more costly. It's a non-ending spiral that is going up and up and up. You're strangling us and you're just causing more social problems and more pollution. I know it's not your intention, none of you, but it's what is happening and it's got to stop somewhere and I wish it would be on 3rd Street.

Daniel Tuxbury: I live at 766 Tox Drive. We've been there for nearly 30 years and we've owned land in that area. We have raised all of our four kids there and they're pretty much up and gone now. I've always been concerned about the water quality in the aquifer especially with the new growth that has been happening in this city over the last 20 some years and with the proposal that's coming we would also encourage that the surveyor run out there because they are so concerned with that. I appreciate the opportunity and I appreciate giving us the opportunity to do this. Thanks.

Tom Dunton: I live at 305 South Grove and I own 2610 Gleason as well. As far as being long-term, my grandmother planted that tree off her front porch that's the bike stands now. I live on the property that my dad bought in 1926. This should not turn into a debate about zoning. We're asking for a petition for an excavation permit. I hope you can keep your scope on that. Thank you.

Carol Anderson: On Tower Street. I just had a question. Is it Mr. Crowsley? Did he say that we're getting waste from our septic systems into the aquifer? I sure as heck hope not because I'm drinking that water. When I refinanced my house, I had to have my well tested and it tested negative. So I am wondering what the documentation for that is?

Jim Carlson: The ability to use an aquifer for drinking water and wastewater is much less of a problem if you have very low densities and much more of a problem as more and more wastewater goes into that aquifer and more and more wells go into the same aquifer. The risks of contamination get higher with regards to disease. It gets higher partially because you can't get sick from your own wastes, because that's already been part of your body; you get sick from other people's waste. And there are some situations where wells are very close to septic systems but because of the intervening soils and the geometry of the system, it works pretty good. But the risks get higher and higher as you put more wells and more waste

water into the aquifer. That's one issue. I think that probably most of these wells out here test okay when we do a test in our lab for e.coli, which is a fairly large bacteria and not capable of traveling as far as some viruses and other parasites. Nonetheless, we believe that most of the wells out here in this area are pretty safe especially if they're drilled 80-100 feet deep, which is possible in this part of the aquifer. So risks increase as density increases when you're using the aquifer for both waste and drinking water. The other thing that's going on in this area because we're so very lucky, the huge amounts of water flushed through the Missoula Aquifer almost unimaginable amounts of water leak out in the stretch from Hellgate Canyon down to about Reserve Street. The river is a losing stream from Reserve Street all the way – meaning, it's leaking water out the bottom and the sides – from Reserve Street approximately, down to the confluence of the Bitterroot and the Bitterroot from out around Linda Vista coming down to the confluences all gaining water from that water that's leaking out of the Clark Fork, which at the Hellgate is 40 feet higher than the confluence of the two rivers. What I have here is a map that shows two things. It shows the topography of the aquifer - meaning the saturated zones. These are topographic lines and it is basically downhill then from the Hellgate Canyon out to the Bitterroot and out to the confluence area; we're right about here on this map now. As you see the dots here, green, those indicate nitrogen levels in wells that we tested and then they go to a lime green. If you get way out towards the confluence of the two rivers, there are some orange ones and they indicate increases in nitrogen. Not nitrogen at levels that are unhealthy for humans but much, much higher than what is in the Clark Fork River. So eventually this nitrogen that passes through our body and into the garbage disposal and so on is dissolved into the system, broken down by the bacteria, then it ends up as a solution in the waste water percolates down to the aquifer and goes into the river and that's one of the biggest issues that we're talking about. The Wastewater Treatment Plant is currently removing about 70% of that nitrogen and septic systems remove 20-25%. That's one of the big reasons we want people to move on to the city system as it's developed because it does a very efficient job of getting those nutrients out of the aquifer, which eventually ends up in the river. Does that answer the question?

Chairman Bill Carey: Thank you, Jim. How would a citizen who wanted to find some data supporting or maybe question what you just said, is it on the website?

Jim Carlson: I don't know. That's certainly information they could obtain from the Water Quality District.

Chairman Bill Carey: The Water Quality District.

Jim Carlson: There are some reports of that nature on the Missoula County homepage.

Carol Anderson: The question was, is my septic system contaminating the aquifer so that I can't drink the water in my well? I think what I heard through everything you said, no.

Jim Carlson: Probably not.

Commissioner Curtiss: I think what we're trying to explain is while our wells take water out of this aquifer – if you look at how a septic system works, the water from the drain field does work its way down through the earth into the aquifer.

Chairman Bill Carey: We could go around and around about the science of this. Who else would like to speak?

Jim Carlson: There is (inaudible) grass roots go down about that far. Our drain fields are down 2-3 feet. Some tree roots will get some of that. Essentially but not very much, most of the water, the liquid ends up down in the aquifer. Certainly during the winter months there is no transportation and it all goes down. This isn't based on my opinion it's based on work that's been done by lots and lots of people.

Chairman Bill Carey: Is there anyone who hasn't spoken what to speak?

Ed Taylor: I guess I want to hark back to the meeting that we had a couple of years ago when we put the Sewer Project on hold. We signed all the petitions, you guys voted to rescind that project. At that time, if I remember right – I don't have this in front of me – I think what was spoken, was that in the future before anything happened, the Commissioners or a study group was going to make some kind of a study before any of this sewer was going to come down here. Has this taken place?

Commissioner Curtiss: I don't remember that as part....

Chairman Bill Carey: I don't remember talking about the study.

Commissioner Curtiss: What I remember, we talked about the people in this area who are concerned about density and I have the density map – zoning map for this area. There are citizen initiated zoning district 7, 9, 10, 13, 14 that have no density. We said that we would delay this so people have time to deal with that. I know that there is a group that's working on that now.

Ed Taylor: Well I'm pretty sure that if we look through the minutes there was a statement of some kind of a study before the sewer came down here that was going to have to be presented by the City, if I'm not mistaken. (END OF TAPE 1 SIDE B) -- According to the Growth Management Policy and the map that was in front of me a couple years ago, this particular area was laid out to approximately 1000-1,200 homes for the up build in the next 20 years or something like that. I don't know if the people here realize this but Growth Management Policy means absolutely nothing. It has no legal basis at all. It's just a matter of smoke in the air. If this keeps up, what's going to happen – I don't want to turn it into a zoning thing either, although we need to give zoning a place before too much of this happens – if this keeps up with the sewer down here, we're going to have well over 1,000 homes built up here. I don't know where we're all coming from that. Mr. Carlson's comments about the effluent, or the drainage field zone, spreads out from a single-family dwelling is all well and good. At one point a couple years ago in the development of Pony Place, which is shared septic system that he approved – if that is correct, he said multiple units would go into a smaller stream. That is absolutely 180 degrees from what he had proposed for the Pony Place Subdivision. Mike Milodragovich was very concerned about the septic plume from Pony Place, Mr. Carlson said, "Don't worry about it." So I'm a little confused on those couple of statements. But that's all I have to say.

Chairman Bill Carey: Thank you, Mr. Taylor. I think there may be more than one sign up sheet out there. Make sure you've got your name on one. Thank you.

Will Snodgrass: In the late 1970s when the United States Environmental Protection Agency realized that sewage treatment plants were ruining our rivers and we were facing a water shortage, they, through a President's Council on environmental quality known as CDQ in Washington mandated the formation of the National Small Flows Clearing House by the University of Virginia. The job of that facility is to develop advanced, onsite wastewater systems such as those we've been discussing tonight, which are described in 201G5 of the Clean Water Act. It is absolutely false to state that these systems are experimental or that they're not being used. They are being used all over the world, they work very well, and again, they are being implemented, Mr. Carlson, because of the very water shortages that were foreseen in the 1970s. Jen House who is the technical representative who answers the phone at National Small Flows Clearing House said that she can put in the backyard in Missoula, Montana an advanced onsite system that achieved tertiary treatment that will exceed what your treatment plant is doing, and she can do that at a cost competitive rate. If you have a refrigerator, if you have a furnace, an automobile, a VCR or any one of those devices in your home; those devices are intimately more complex than one of these advanced systems.

Commissioner Curtiss: Mr. Snodgrass, you're supposed to be addressing us and not Mr. Carlson.

Will Snodgrass: I would rather talk to the folks but –

Chairman Bill Carey: You need to address the Board.

Will Snodgrass: I think the laws here in this state for public participation refer to meaningful exchange, Commissioners, and that includes all of us. So I really resent when our Health Department Officials not only withhold information about these systems, such as the bio-cure, which in a 600,000 gallon per day application in the marina is yet to produce 10 pounds of sludge. Okay. Do you want to see what conventional wastewater treatment facilities are doing to the environment get a copy of the Canada Film Board film called "Crap Chute" and you will get some idea of what these conventional systems are doing. We're being denied our legal rights, we're being denied the right to a clean and healthful environment and there's a much better and more economical way to treat waste than to pump it miles and miles through pipes. Thank you.

Chairman Bill Carey: Thank you, Will. Anybody else?

Linda Tuxbury: I live at 766 Tox Drive. I was one of the signers of the petition for the sewer development. I'm here personally to tell you that I'm in favor of it. Thank you.

Commissioner Curtiss: If there are any others that have signed the petition asking us to consider this excavation permit I'd sure appreciate you saying so, on the record.

Gene Mostad: I have the 7 ½ acres just east of the school here. I approve of the excavation permit and I'd ask that you grant it. Thank you.

JoAnn Shep-Farley: I'm here to represent my dad, Floyd Shep, who owns land there at 360 Stone Street. We're in favor of the sewer. Thank you.

Jared Langley: I have the 12 acres just north and west of here, right across from the Magenta Meadows and I have asked for the petition to go through for the sewer. Thank you.

James Regan: I live at 303 Tower Street. I've listened to the arguments and the longer they put this off the more it's going to cost. Actually, construction costs go up approximately 25% a year, now are these people going to look the way in 5-10 years and pay 10 times as much as it costs today. I think they're foolish not to put it in. I don't like it. I figured I would die before you got out there with this sewer. You got there quicker or I lived longer than a few years. That's all.

Steve Inabnit: My wife, Mary, and I are co-owners of a property across the street, across Hiberta and we're in favor of this sewer.

Chairman Bill Carey: Anybody else. Seeing no one step forward. We'll close the hearing.

Commissioner Curtiss: I think what we've always heard –

Commissioner Evans: Excuse me just a moment. Our attorney tells us that we should ask if there's anyone in opposition who has not spoken.

Mike Sehestedt: We need a specific request. Are there any opponents here that haven't spoken but would like to?

Chairman Bill Carey: Thank you, Michael. I'll reopen this hearing. Thank you.

Janet Hincer: My husband Roger and we live at 3840 Spurgin Road. We are opposed – totally opposed to this sewer going through on 3rd Street.

Chairman Bill Carey: Anyone else who hasn't spoken yet that would like to, who's against it? Okay. I'll re-close the hearing. Thank you, Michael.

Commissioner Curtiss: I think the issue that always comes up in this area is two things. One is concern about annexation but even more than that is density. We can condition the permit and that's kind of what we've talked about a little bit. We've talked with Mike Sehestedt about it earlier today just to understand what our – what the County Commissions ability to condition would be. You can see on the map the folks who have asked us to consider this that have property that they would like to develop. Personal property rights in Montana have always been pretty strong. But as you can see, there would be some properties that would end up being surrounded. One of our concerns is to whether or not to – this is what we plan to work with the City on, if we approve this, is to have the City sign an agreement with us that they would delay annexation of properties that could end up being wholly surrounded but not ready to develop yet, that aren't asking to develop their property. The other is to ask the City to consider as they go forward – I do have the zoning map here – once you get out to Tower then it ends up being 1 per acre and 2 per acre in some parts. We know that the zoning districts don't have density in them and there are folks working on that right now. We would like them to consider more like 4 per acre. I believe that most of the folks that are looking at subdividing have thought of that as the density that they would like. I don't think that we are ready to do all the conditions tonight. We could probably take a vote on whether or not we want to go forward but the conditions we will need to work out with our legal council. One of the pieces that plays into it is that state law now says that if the City annexes a property, they have to annex the whole road in front of it. So for example, as they annexed Magenta Meadows, the City now has a piece of the street. We need to work out, legally, how that would get written up, because other wise as they annex pieces they are going to end up with parts and it will take a little bit of work, I think. Those are the things that I would consider as we go forward.

Commissioner Evans: I have some pretty mixed emotions on this issue because the folks who want the sewer, I believe, ought to have the power to have the sewer. On the other hand, I am not deaf to your concerns that you don't want to be annexed or you don't want to pay additional taxes. I don't want you to have to be annexed unless your system fails. I would like to ask the City and I have just briefly discuss it with Mayor that I would like to delay of at least 10 years before annexation unless your system fails or unless you asked to be annexed. I do not want a clause that says that after 51% - I'm making up that number based on some previous agreements – that after 51% of the houses are sold or added because of the development that that agreement with the City would go away. That would not tickle me so I don't want that. I don't want it to gradually end up wholly surrounded and then you'd be taken in because of that. I think you live out in rural areas because you choose to live there and that's the life style you like. I'd like try and help you keep that. At the same time, there are people who have land that I believe they have a right to develop. I'm hoping we can find some sort of a compromise here that allows the folks who want to develop their land the power to have the sewer but I also hear the concerns about heavy density. I'm going to ask Michael to explain how the law works in regards to the zoning where the City annexes. I think there are some rules that they have to follow but I'm not a lawyer so I'll let him do that. I'd like to try and find some way to help you live the way you want to live, still provide the sewer that helps protect the aquifer because I don't want anybody to turn on their water faucet and have it be icky colored. You want to be able to drink pure water. I'm not a scientist; I don't know who's right in this issue. All I know is that through Public Safety and Public Health folks, they tell me we need to be concerned about the aquifer so therefore going to be concerned about it. I have another concern and that is that I leave two days from know to go on vacation and I won't be back for two weeks. The day I come back, Jean leaves. I'd rather the public didn't know that we're going to be gone. I like my house safe. I just don't want it in the paper that my house is going to be empty for two weeks.

Commissioner Curtiss: Except for the big dog.

Commissioner Evans: Except for that great huge dog that will eat them. I hate to have us wait on the decision but I don't know that we're ready to make it.

Mike Sehestedt: I'm going to respond to questions pursuant to your request. What's been happening out here in Magenta Meadows is an example and other areas in the County as well. The City Council has actually been reviewing the subdivision. At one council meeting they annexed the area, approved zoning for the area and then approved the subdivision – it all happens at a single council meeting. It's perfectly legal and it complete divests the Commissioners at any authority over a particular subdivision. The reason we're here is that use of intervening County right-of-way gives us at least, hopefully, some lever to condition City Council action. On this specific point of zoning, when the City annexes they can in a single process also

zone the property. There are two possibilities; one, if it's already zoned, they can zone it to the City zoning classification that is closest to the existing County zoning on the property. The problem that people were going to address when we met on this almost two years ago was the fact that there are a whole bunch of citizen initiated zoning districts out here that while they were strict uses don't have any particular lot size and don't impose any density restrictions. To date, there hasn't been much in the way of citizen action on this citizen initiated zoning district. What it means is that the City can take –a guess at what they think is the closest city zoning classification and go from there and do the zoning in one foul swoop. If there isn't County zoning or even if there is, then they also have the option of in the alternative to adopt City zoning in conformity with the approved Growth Policy. That's an issue. I don't think – once an area is annexed, then if they don't want to go with the existing zoning they can proceed through a typical City zoning process and rezone the area. That's kind of an attribute of being the government is they control our statutory processes and do that. The one thing that could be done and again, marching back to two years ago, citizen initiated zoning district need to exercise their initiative and come forward with some proposed densities or minimum lot sizes or whatever the citizens in that district deem are appropriate. It's tough to sit here and have this forum on an excavation permit become a substitute for a zoning discussion. I don't know how much more clearly to say it than not but our ability is limited given the way state law works and noncontiguous annexation during the possibility that City is beginning to use it extensively.

Chairman Bill Carey: Thank you.

Commissioner Evans: Michael, you told us this morning that if we told our Public Works Director to issue a permit that a permit could have some wording in it that I would like you to share with the audience.

Mike Sehestedt: What I told you this morning is whatever we do it kind of depends on what you hear at the hearing tonight. If what you hear at the hearing tonight suggests to you that you want to take some action, your guessing probably you would, because a number of these hearings, and grant the permit you want to keep people from being involuntarily annexed for at least some term of years. Because we've had these discussions before, your concern is over – I knew that there would be issues on density. I believe that you can issue the permit subject to a condition that the City not involuntarily annex or use property connected to the sewer to wholly surround and involuntarily annex other properties in the area for at least some period of years. Whether the City will accept that condition and exactly how many years are issues I can't answer for you, they're policy questions for you and a matter to have a dispute with the City. Similarly I think we could proposed, although I think it's more problematic, a condition that the City not – in those areas where zoning does not currently specify the density, the City not approve for a period of X years, a density greater than 4 per acre or 2 per acre, whatever you think is appropriate without going through a formal rezoning process. These are just thoughts and I'm not even sure of the precise phraseology, but I think we've hammered out agreements for restricting annexation with the City in the past. I suspect we could do it again. I don't see any reason we couldn't hammer out some commitment on density with the idea of protecting the character of the neighborhood or at least requiring to go through a fully formal process if they wanted to vary from that agreed density.

Commissioner Evans: I'm thinking of when you said this morning that....

Mike Sehestedt: It's because you want to vote. What we might say is, acceptance of this permit for construction purposes constitutes agreement that the City will not do such and such or will do whatever. That would be a fall back position but I would prefer to have something negotiated and agreed to. I recognize that we have difficulties there. I think if you guys could reach an agreement we can work on it even though one of you is going to be gone, the other one will be here – we'll always have the quorum, we can take action.

Chairman Bill Carey: I'll just say that there is a picture or photograph in the Commissioner's office of the fairgrounds and I think the date is 1937. There is no structure anywhere near it. Granted that was 70 years ago but just think of how Missoula has changed in the last 20 years. Now we have a Fortune 500 company building a building in our industrial park that is going to employ 800 people over time. They found us; we didn't go looking for them. I think it's really a question of how do we handle this growth in a way that preserves some essential quality of life here that we all share and also preserves the public health and safety. This kind of thing is going to come up again week after week the County Commissioners preside over this subdivision in Missoula County. In some cases the developers who come in – in many cases in

Missoula, actually – will come in with some thoughtful proposals and use the land in a thoughtful and creative way. So I think we're fortunate in that regard but it doesn't always mean it's going to stay that way especially as some bigger businesses come to town. If there is a motion, we'll entertain it.

Commissioner Curtiss: Mike, Can we say that the conditions will be addressed permit?

Commissioner Evans: I think we need to tell the audience the question you just asked.

Commissioner Curtiss: My question is that if we make a motion to approve without having an agreement signed yet, with the City regard to involuntary annexation, density concerns, citizen initiated zoning districts, and the road issues, can we condition it on having those being negotiated in the permit. There are two processes. The Commissioners in our resolution hold a hearing to decide whether or not a permit can be issued. Then all the construction plans and all of those things have to be approved by our Public Works Director. So the permit is actually issued by him.

Mike Sehestedt: The answer to that is, yes, we could. I think you need, in your motion, to specify what the conditions are. I hate to sit here and guess. Let me just clarify – this is hypothetical for wording purposes. I'm not prejudging or second guess what you're going to do. You could say that we approve the granting of the excavation permit for the project as described provided we can negotiate a satisfactory agreement with the City to guarantee that the road will be repaved in blue asphalt. I'm trying to do that because I don't want to touch on anything that's been a real issue here. It's just going to sound like I'm suggesting what I think the answer should be in a particular point. I want to leave that to be solely your prerogative. The answer to your question in an affirmative but I think the actual negotiation of that needs to be by Commissioners and Mayor/Council, not by the Public Works Director.

Commissioner Curtiss: Based on the public comment and the comments that we've received in written form, I would move that the County Commissioners conditionally approve the use of the County right-of-way to extend the sewer services west down 3rd Avenue as requested to the Tower Street area and that the use of this easement by the City of Missoula – that we do this conditionally provided that we can negotiate with the City of the following issues: The involuntary annexation, that the City would agree to delay annexation and not use the wholly surround method on properties who do not chose to subdivide or need to be connected to the sewer for 10 years.

Commissioner Evans: For 10 years.

Commissioner Curtiss: For 10. I don't know if the City will go that far but we'll try. For 10 years, and that the City would also agree to an overall density of 4 homes per acre in the areas that do not currently have a density in their zoning. So that would be the citizen initiated zoning –

Commissioner Evans: No more than 4.

Commissioner Curtiss: No more than 4 per acre.

Commissioner Evans: The maximum of 4.

Commissioner Curtiss: Maximum of 4 and that they would delay – that those places – Magenta Meadows part of it was in a citizen initiated zoning district and so therefore there wasn't any density for the City to base their zoning on. The other would be if we need to work on any road issues. Didn't that need to be in the motion?

Mike Sehestedt: In the reality, and that we come up with a satisfactory agreement on road maintenance on those areas where we have mixed City/County maintenance responsibility. Given the current state of the law and given what I think is the unstated bill preventing wholesale annexation out 3rd Street without the consent of the people on 3rd Street. We're going to wind up with 100 yards of County, 300 yards of City, 200 yards of County and then another 100 yards of City. It's hard on the snow plows to lift and drop the blade that frequently.

Commissioner Evans: I would also want a statement that says that the delayed annexation is not affected in any way by the number of homes that are built or the homes that are sold. I don't want to see that changed. And then you get annexed because of the number of houses have changed, the percentages, that 51% of the houses changed ownership. That was done in other places and I don't want that to happen here. I may not get 10 years. We may end up agreeing to the City for 8 years and I'm basing that on the fact that terms for the Mayor are 4 years. My assumption is that the Mayor will be Mayor again and that's 8 years. So he could probably agree for something during his term; I'm not sure he can commit a future Mayor to agreeing to this but I would start with 10 years. I would second your motion with those contingencies.

Commissioner Curtiss: So the involuntary annexation would also have a clause say, not based on changed of ownership?

Commissioner Evans: Right. You need to understand that if your system fails, that's a different rule and if you're within X number of feet, you have to attach to the sewer. We can't change that. Those are the things that I would like in the permit and if they decide to go ahead and excavate that is, in my mind, proof that they are willing to accept our agreements. Is that correct, Michael?

Mike Sehestedt: I think we're going to – we want to get into agreement. I think we could say that. I think I we might be able to make that stick but if I could wave an agreement under the judge's nose with the City's second chair on it, it works even better.

Chairman Bill Carey: Have you stated your motion for me?

Commissioner Curtiss: I think so. I hope it's not too confusing.

Chairman Bill Carey: Any further discussion?

Commissioner Evans: But I do have a question, based on the last court's decision. Once we've made a motion do we have to take any more comment or do we just vote?

Mike Sehestedt: At this point, I think it's simply vote. You've had the discussion. You had public participation. This is something that's been on the table and I think people have addressed all of these issues.

Chairman Bill Carey: Okay. We have a seconded motion. The motion carried on a vote 3-0.

Commissioner Evans: I would like to say to you folks that I hope that is a reasonable compromise because the things that you want are not unimportant to us.

Commissioner Jean Curtiss moved that the County Commissioners conditionally approve the use of the County right-of-way to extend the sewer services west down 3rd Avenue as requested to the Tower Street area and that the use of this easement by the City of Missoula – that we do this conditionally provided that we can negotiate with the City on the following issues: The involuntary annexation (not based % of changed ownership), that the City would agree to delay annexation and not use the wholly surround method on properties who do not chose to subdivide or need to be connected to the sewer for 10 years. And that the City would also agree to an overall density of no more than 4 homes per acre in the areas that do not currently have a density in their zoning. Commissioner Barbara Evans seconded. The motion carried on a vote of 3-0.

There being no further business to come before the Commissioners we're in recess at 9:15 p.m.