

June 14, 2006 Public Meeting – Chairman Bill Carey called the meeting to order at 1:30 p.m. Also present were Commissioner Curtiss, Commissioner Evans, Chief Deputy County Attorney Mike Sehestedt, Assistant Director Public Works Tim Elsea and RSID Coordinator Jesse Sattley.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

ROUTINE ADMINISTRATIVE ACTIONS

Commissioner Evans moved to approve Weekly Claims List in the amount of \$330,744.51. Commissioner Curtiss seconded. The motion carried on a vote of 3-0.

BID AWARDS

Meadows West Roadways – Tookie Trek RSID 8482 (*Public Works*)

Jesse Sattley with Missoula County Public Works RSID Coordinator: This is a consideration of an award for construction bids for RSID 8482, Tookie Trek road paving. On June 13, 2006 two construction bids were received and opened with the following results. L.S. Jenson Paving's bid was \$869, 405; JTL Group was \$914, 850. The bids came in substantially higher than estimated as can be seen on the attached bid summary. This reflects the large increase in oil prices and other market conditions. Staff recommends rejection of all bids.

Commissioner Evans: Michael, this is the second that we've had a problem with due to, I assume the price of asphalt, and we rejected all bids last week. I'm curious to know whether or not we could say to the lowest bidder that we have, or to both of them, that we are of a mind to reject the bids unless they are willing to accept the amount that we put in the budget. Is that legal to do that?

Mike Sehestedt: Actually, probably not. It's outside the competitive bid process. I discussed this very briefly with Tim and Jesse and I concur on the recommendation to reject all bids. What I would suggest however is that we keep these RSID's alive with the thought that we may want to go back out to bid if oil prices fall to something looking like a normal level. My thinking was that if we immediately kill these two SID's and went back into the recreation process, we'd still almost certainly miss this construction season. I'm thinking with the election coming up we may see a fall in oil prices, maybe not....

Commissioner Evans: So when we rejected the bid last week, did we keep that RSID alive?

Mike Sehestedt: Yes. We haven't taken any action to get rid of the SID's. We're just simply saying these bids aren't acceptable and we'll have to consider our options. If something doesn't change and we can't go out and get a bid that can be funded within the limits of this RSID, then I think we need to have further discussions with the property owners out there and either recreate or create a new SID with a higher amount or say, heck this has just priced itself, paving these roads has just been priced out of the market. But that's really a decision I think we need make in cooperation with the property owners and I'm suggesting that we at least put that discussion off for a while and look to see what might happen to oil prices in the interim. We might be able....the increase in asphalt, we bid out asphalt and it went from 24 a ton a year ago to 34 a ton this year. That's a HUGE increase; it's reflective of the huge increase in the cost of asphalt. There's also some additional ripple downs in terms of fuel costs for all of the equipment. Whether it's producing the aggregate that goes as sub-base or into the mix, it's also reflected the cost of running the equipment to do the dirt work actually on the project. So if prices were to return to something resembling historic levels, we might well be able to go forward with this. If they stay high, we're going to have to check our hold card and have a discussion with the residents.

Lauren Ward: I'm the president of the Meadows West Homeowners Association. We had a board meeting last night, I've been discussing this with Greg Robertson over the last couple weeks with the Tookie or the O'Keefe Creek bid. What we would like to do, from a board standpoint, is submit a ballot to the homeowners with the new numbers that came in on the bids. The board's basic feeling is that oil prices are where they are and it's not going to be any cheaper next year to do this project. We've been waiting a couple of years to

get this done and we really hate to see this slip away at this point. We'd like the opportunity to put out a ballot to the homeowners in our landowners newsletter which is going out next week. And what I'd like to do is get those numbers exactly what they are, what the RSID would be with the numbers that came in with the bids so that we could put that out to the homeowners and see if they're willing to step up to the additional cost. I don't know the legalities in that.

Mike Sehestedt: Mechanically what would still have to happen is, and this is part of the interactive process I was talking about, if the homeowners say yes they'll support the higher price then we would have to create a new SID at the higher numbers and higher assessment. Then we would bid the project under that RSID. That would certainly be doable if we get the results soon enough. It's conceivable that we could make this construction season.

Lauren Ward: How long are the bids good that came in?

Mike Sehestedt: These bids are just for this project....

Lauren Ward: Are they good for 30 days? Or 60 days? Or....

Mike Sehestedt: I think we've got a 45 day hold period in them.

Commissioner Carey: When did that clock start ticking?

Mike Sehestedt: When we opened them....a couple of days ago.

Lauren Ward: Which was a week ago for the O'Keefe Creek one, is that right?

Mike Sehestedt: Right. O'Keefe Creek's actually been rejected already.

Lauren Ward: Right.

Mike Sehestedt: Bonds released....it's....in fairness to the contractors; they've got some of their bonding capacity committed to this project which may interfere with their ability to bid other projects. We've also got bid security that we're holding that we really should get back to them if we're not going to award promptly.

Commissioner Evans: So, Jesse...

Jesse Sattley: That was the recommendation from Greg Robertson.

Mike Sehestedt: Yeah, so I don't think rejecting the bids is going to be a problem. I don't think we can get the notice...you're going to have to get the input from your people in this month's newsletter. If it comes through and they say they'd like to go higher we'd have to go through the RSID notice and creation process again and get authority...jurisdiction to levy that higher assessment amount. That....

Jesse Sattley: So that's 30 days now and then another 30 days for protest.

Commissioner Evans: But we still might be able to manage it this summer.

Mike Sehestedt: It's conceivable we could do it this summer....

Commissioner Carey: It sounds like it's going to be two months.

Jesse Sattley: Yeah, I don't know.

Mike Sehestedt: So, the bids will go away. We can't force the people to hold the bids I don't believe.

Commissioner Curtiss: Do we wait until the end of the protest period before we put out the request for bids?

Mike Sehestedt: We can certainly...

Commissioner Curtiss: I'm just looking at the timeline.

Mike Sehestedt: We can certainly start...all of the spec and all of the engineering work is done which means this will be much shorter in the process. Here we did preliminary engineering work, got estimates, created the SID and then had to develop the detailed plans to go to bid. At this point, once the SID is created and we've got all of the paperwork, the specs we can go to bid immediately.

Commissioner Evans: Can't we just change the numbers?

Mike Sehestedt: We don't put any numbers in the bid; we let the contractors fill those in on a competitive basis.

Commissioner Evans: (inaudible)...the SID?

Mike Sehestedt: Yes the SID #, yep.

Commissioner Carey: Okay, so the action then would be to reject this bid.

Mike Sehestedt: But that doesn't...

Commissioner Curtiss: It would be helpful however to have a feel of how the homeowners feel about it so we know whether or not to go forward at this time.

Mike Sehestedt: Right.

Lauren Ward: What if the contractors were willing to hold their bids for the 45 days in order to have time to get responses from the landowners? We could call an emergency meeting and try to get everybody to get some quick action to let you know.

Commissioner Curtiss: We still have to notice and all.

Mike Sehestedt: Even if we got the majority sense that the people out there that are actually going to be paying the freight on this were willing, or the majority were willing, to accept the higher assessment numbers, we couldn't award the bid until we had actually completed the process of recreating the SID. That won't be done within 45 days, even if we start right now. So, I don't think we can hold the bid, but my experience has been when you re-bid projects generally you get somewhat lower bids. But that's not a guarantee, or not a certainty.

Lauren Ward: Based on the bids that we have now, is it possible that you could let me know what that new number would be? Based on the bids today?

Mike Sehestedt: I think, Jesse, you can crank that out pretty quickly. Just use the new bid numbers as the engineers estimate.

Lauren Ward: So I could present that as a, 'here's where we're at today,' to the homeowners.

Jesse Sattley: Actually, Matt Smith, your engineer has those figures. So get a hold of him. He's doing the bid analysis right now.

Lauren Ward: Okay.

Jesse Sattley: He's going through the bids and finding out where their cost differences are.

Lauren Ward: What about the yearly tax assessment that...say if it was \$16,000 per lot owner, do we have indication of what that additional tax per year would be through the 20 years?

Jesse Sattley: Yes, we would have that. It's a simple individual assessment, so yes we would have that.

Lauren Ward: Okay, so I need to talk to Matt and then possibly talk to you?

Jesse Sattley: Yes, right, yes we can come up with that.

Mike Sehestedt: I think pretty easily. Easily once Matt has the numbers.

Jesse Sattley: The other thing is, this has to be really clear because we have to sell bonds on this project and Mae Nan has to go through all this process, too.

Mike Sehestedt: Right, I just don't think we can hold these bids even if we thought they were as good as it was going to get. That's the bottom line for me.

Commissioner Evans moved to reject all bids and recognize provide them with the information they need as quickly as possible to make a decision on what their pleasure is. Commissioner Curtiss seconded. The motion carried on a vote of 3-0.

Contract for Library Computer Lab & ADA Remodel (*Library*)

Rex Thompson with Oz Architects: Are you just interested in the numbers, or do you want to know what they're doing?

Commissioner Evans: I'd like to know what it's for.

Rex Thompson: The library is required to do a few ADA remodels. There's some exterior parking that is on the south side of the building, underneath parking? Those curbs do not meet current ADA standards and also the interior hand railing from the basement to the first floor does not meet guard rail height and the rails themselves are larger than four inches, so there's a potential there for accidents and liability. The other portion of the project is they are taking their public computer lab and moving it down into the basement into some of their office space and that office space it then being moved out into their existing garage, basically. They are then turning that into those offices that they lost because of moving the public computer lab downstairs.

Commissioner Curtiss: Is that to make the lab more accessible or just because they need the space upstairs?

Rex Thompson: I don't know all of the reasons, I know some of them. Some are security reasons, space so I think there are multiple reasons why they're doing that.

Commissioner Carey: Do you know if they're taking this out of reserve funds?

Rex Thompson: That I do not know.

Commissioner Curtiss: This is probably the rest of the money that they got from the bond.

Commissioner Curtiss moved to award the contract to D. Lower Construction as the lowest and best bid for the remodel and computer lab update, subject to the library having the money (\$277, 396) in their budget to pay for it. Commissioner Evans seconded. The motion carried on a vote of 3-0.

**HEARING (Certificate of Survey)
Kuhl Family Transfer**

Commissioner Carey opened the hearing

Mike Sehestedt: this is continued from last week and it is a consideration of a request to create a family transfer parcel for that Tract described as Tract 2, COS#5618, NE ¼ of Section 18, Township 13 North, Range 16 West. Tanya M. Kuhl has submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 15 acres in size and is located near Johnsrud Park on Bear Creek Road. Tanya proposes to create on approximately five (5) acre parcel for transfer to her father, James Kuhl, for residential purposes and keep the remaining approximately 10 acre parcel for residential purposes as well. The history of the parcel is as follows: COS #170 was filed in January 1974 creating Lot 26. A Warranty Deed was filed in November 2003 deeding the property to Tanya M. Babbitt. COS #5618 was filed in October 2004 for the purpose of a single gift and leaving Tract 2 as a remainder. A Warranty Deed was filed in January 2006 by Tanya M. Kuhl formerly known as Tanya M. Babbitt deeding the property into the name Tanya M. Kuhl. According to records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the subdivision except: COS #5618, 10/15/04 Gift NE Sec 18, T.13N, R.16W.

Commissioner Carey: We ask our attorney to ask applicants some questions on the record in order to help assure us that this is not an attempt to evade subdivision review which is a misdemeanor.

Tanya Kuhl: Okay.

Mike Sehestedt: Was I correct when I said you've owned the property since 2003?

Tanya Kuhl: Yes.

Mike Sehestedt: When you acquired the property, did you buy it with the intention of dividing it?

Tanya Kuhl: My ex husband and I bought it and when we did the first transfer his mom was supposed to move up there with us because she was the caregiver for our kids.

Mike Sehestedt: Did she do that?

Tanya Kuhl: We divorced in the process of all of this, so now I live up there.

Mike Sehestedt: Well, building a new house will occasionally do that. Hahaha. Was the property transferred to his mother?

Tanya Kuhl: No, he transferred it into his name.

Mike Sehestedt: And your intention is to transfer it to your father?

Tanya Kuhl: Yes.

Mike Sehestedt: What are his intentions with regard to the property?

Tanya Kuhl: He's going to sell their house when my grandfather passes away and then move up there so he can help pay the bills and such.

Mike Sehestedt: What are your plans with regard to the remainder?

Tanya Kuhl: I live in a house there now and then he's going to move up on the top 10 and just live up there.

Mike Sehestedt: Have you talked to anybody at the County about going through subdivision review?

Tanya Kuhl: I did a while ago because I was going to just sell part of it because I can't afford it, but then my dad said he would move up there and help with it.

Mike Sehestedt: Are you in the business of building or developing property?

Tanya Kuhl: No.

Mike Sehestedt: Are you attempting to evade subdivision review?

Tanya Kuhl: No.

Mike Sehestedt: And you understand that when the Commissioners consider this request they're not reviewing it for adequate access in all weather for all vehicles including emergency services.

Tanya Kuhl: Um hm.

Mike Sehestedt: And you understand that if the Commissioners were to approve use of this exemption to divide the property, that doesn't constitute approval for zoning compliance, floodplain rules, septic or any other regulatory considerations.

Tanya Kuhl: Yes. Yes.

Commissioner Curtiss: Just clarification, so when Mr. Sehestedt read us history, the COS that was filed in October 2004 for the purpose of a single gift was the one that you were going to give to your ex mother-in-law, but it ended up going to your husband in the divorce?

Tanya Kuhl: Yes.

Commissioner Curtiss: Okay.

Commissioner Evans moved to approve the Kuhl family transfer request to create one parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded. The motion carried on a vote of 3-0.

CONSIDERATION

Hibbitts Flats (2 lots on 5 acres) – Bald Flat Road (between Big Flat Road and Flora Drive)

Commissioner Carey opened the hearing

Mirtha Becerra with OPG: I'm not sure there is a Bald Flat Road.

Commissioner Curtiss: Did we make that up?

Commissioner Evans: I've never heard of it.

Mirtha Becerra: I'm not sure, but this is a request from Lance and Debbie Hibbitts to subdivide a 5.05 acre parcel into two residential lots. The property is zoned CRR1, one dwelling unit per acre and the land use is designation is one dwelling unit per five acres to ten acres. There's one variance request and that is to vary from the minimum road width along Flora Drive. Staff recommends approval of this variance request. There are, I believe, 11 conditions of approval for this subdivision. Most of them are the typical conditions of approval that apply to rural subdivisions like this one, those dealing with RSID's for public water, sewer and road improvements. Some others deal with amending the development covenants to include more specific language as provided by agencies such as Montana Fish, Wildlife and Parks and the Health Department. But I would like to highlight conditions of approval one, two and three which are more specific to this subdivision. Number one requires engineering plans for a bridge or drainage structure over the irrigation ditch for the new driveway to be approved by County Public Works and Rural Fire Department. Number two has to do with vacating a portion of the driveway which exists right now and would provide access to

proposed Lot 2 – either to have that abandoned and revegetated or to provide an access easement. Number three has to do with having plans for that new driveway be approved by Public Works and the Rural Fire Department prior to building permit approval. During our planning status meeting, we worked out some of alternative language, but I think that the representative might want to work with us on that, so I'll let him explain that.

Ron Ewart with Eli & Associates: Lance and Debbie Hibbitts are here with me this afternoon. They purchased this property and their plans are to construct a new home on Lot 2 and to retain the entire property for some time and then maybe someday, if they need money for the kids college, they could sell the other lot. What they want to do right now is to build a new home in about the location of their mobile home right now. They've already gotten an approach permit from the County for Flora Drive, so there's an existing driveway off of Big Flat Drive. What they want to do is to be able to use either access to get in and out. We always like to see more than one way in and out especially in a wooded environment and by having the two accesses, they could continue to utilize that. If we look at the alternative, that's what we discussed at planning status?

Mirtha Becerra: Yes.

Ron Ewart: Condition number one on the alternative language would be fine. The culvert...it's a 16 foot wide, 36 inch culvert and it's not going to change. What's there now is going to stay there, but I'm wondering about adding the wording 'ditch company' on there because if we're not changing anything and if the culvert plenty big and wide, it's just another step....I haven't been able to get a hold of the ditch company at all. Of course Public Works and Rural Fire would ensure that it's a safe and wide enough culvert, so it's not a big deal, but I guess it would be best if we could eliminate the wording, 'appropriate ditch company,' because what's there is what's there and it's in good shape. Number two...I talked to Lance about this later and to make a long story short, I think it would be best if that were condition were eliminated. The reason, it says that we need to remove part of the driveway and revegetate it, however if they're going to maintain the continuity between Big Flat and Flora Dr, which again is good for public safety reasons, then we wouldn't need to revegetate the driveway. We did a subdivision in Elk Meadows where one of the driveways came right off of an intersection and there was a condition to move the driveway and revegetate what was there, that was fine because we were moving an entire driveway and you wouldn't want to leave what was left to just grow into weeds. In this case, I really don't see a reason to revegetate the driveway if it's going to remain. Certainly, there would not be a need to have an easement because of the fact that when they do sell Lot 1 then that lot will have legal access off of Big Flat Road and Lot 2 will have legal access off of Flora Drive. So to simplify things and to meet the intent of Lance and Debbie, I think we would just like to see number two not be a condition because it doesn't really serve a purpose. Number three contains some of the information in number one....didn't we talk about getting rid of number one at planning status?

Mirtha Becerra: I can't remember. I believe one alternative was to combine one and three because they do talk about crossing the ditch, so maybe including language that deals with that crossing....

Ron Ewart: Yeah, I think what we talked about was getting rid of condition number one because one and three pretty much say the same thing.

Commissioner Curtiss: Although the first one refers to engineering plans.

Ron Ewart: Right, engineering plans for a bridge or drainage structure over the ditch. All we have is a 36 inch, 16 foot wide culvert in very good condition. So, I guess we could get rid of number one and two and still meet the requirements of the subdivision regulations and it would meet the goals of Lance and Debbie. Then on number three, again I don't know if we need 'appropriate ditch company.' If we call them and they come out, great, but we don't know if we can ever get a hold them, plus if Rural Fire and Public Works check it out and say it's good then it's got to be good.

Commissioner Curtiss: On number two, Ron, if they don't plan to sell that other piece at this time and would like to be able to go both way, wouldn't you still need at least the alternative part to have some sort of driveway easement? Because in the future if that piece is still connecting, you kind of need an easement if

you're going to access across each others property. So, you'd either need an easement access in the future or get rid of the center piece.

Ron Ewart: That's true. What I'm thinking, lets say in the future he sells is to a friend or a family member or maybe one of his children live there, then they might want to have the through access. If not, then maybe a fence will go up. Looking at it from a legal perspective and subdivision regulatory perspective, both lots will have legal access to the County roads and there wouldn't be a need for an easement through there. If they decide to, they can put up a fence in between the two, so I see what you're saying but I think to have an easement would be something that....if they did want to put a fence and divide the two in the future, they couldn't if there was an easement through the property.

Commissioner Curtiss: It also functions in a different way if it connects two County roads. So, in some ways then it becomes a road and not just a driveway into each others houses. I think you either take it off when you divide the land or you have an easement. Mike do you have any comment on that?

Mike Sehestedt: Without....at this point we've got legal....lets just look at Lot 2 and the building site on that lot. Right now we've got legal access for that from Flora Drive. If Lot 1 sells, we no longer have absent specific arrangements and agreement reserving an easement down that driveway which is one of the alternatives. We no longer have legal access to Big Flat and we don't have physical access to Flora for the building site unless we have an approved crossing. What I think the issues are for you is one – the ditch company approval could be a pain because the Big Flat Irrigation District can be difficult to get a hold of. It may be we can finesse that if Fire and Public Works approve what I understand is an existing culvert and they say that's wide enough, carries sufficient loads for the fire trucks to get in and out. Since it's there already we can assume the ditch company's fine with it in terms of running the water through. Get approval on that from.... Public Works or the Fire Department says this isn't adequate, you've gotta do something else, then you have an issue with the ditch company that you're going to have to deal with anyway. So, we could drop the ditch company approval out of it because if you're going to do something affecting their ditch, which I think may be a deeded ditch....Big Flat is different than a lot of the irrigation districts. It's a U.S. Bureau of Reclamation project.

Commissioner Evans: What do you mean when you say a deeded ditch?

Mike Sehestedt: They actually have a deed as opposed to an awful lot of the stuff that Missoula Irrigation and....

Commissioner Evans: You mean each owner has a deed to their piece of the ditch?

Mike Sehestedt: No no, the ditch company actually has a deed to the ditch area. I don't know if that's true in this area or not. I haven't done the title work. But....

Tim Elsea Assist. Dir. Public Works: I would be concerned that a 16 foot culvert is long enough. Especially if you have a 3 foot culvert, if you come one to one off of that for one foot of cover four feet, you're going to have an 8 foot driveway for the fire access and with very steep shoulders coming off of that unless you do some type of retaining wall. So, that 16 foot is going to become 8 feet very very quickly and probably even less than that because a one to one doesn't stand up very well.

Ron Ewart: It already exists and there's a crossing there now, maybe if a person just took a look at it and evaluated the situation.

Mike Sehestedt: That's what this calls for, the review and approval and if it meets standards and get approved then you have no further issues. If it doesn't meet the standards and doesn't get approved, then this condition says you're going to have to address it so that's....but I was thinking in terms of the existing driveway abandonment. That might be when a building permit is issued for Lot 1, a portion of the driveway be abandoned. At that point somebody's building, you've got a house there, if it's your kids you're probably fine at least for a while if you drive in front of them. But, frankly joint driveways produce incredible amounts of fighting over maintenance, use, speed, dust, privacy and everything else. In the long run, the property's

going to be worth a lot more if it doesn't have a joint driveway across it. So I would think maybe condition the closure and revegetation of the south 50 feet of the driveway at the time of building permit issuance on Lot 1. That lets your people not get the expense and not have to change their address until they actually peddle Lot 1 and it isn't theirs anymore and at that point that driveway gets closed and they're off to the races going down to Flora.

Commissioner Evans: On the other hand it would seem to me that if they sell Lot 1 it could be with the stipulation that the driveway or road remain usable to both lots.

Mike Sehestedt: And in that case we probably don't want them accessing it on Flora because we then have a through road.

Ron Ewart: They could always add an easement later. If they want to keep this through driveway that serves two lots, so it's classified as a driveway...they could always add an easement later depending on....

Commissioner Evans: On the terms of sale.

Ron Ewart: Right.

Mirtha Becerra: I believe that the intent of that condition was to have that portion of the lot removed and revegetated prior to the building permit considering that if it's sold to someone else and it doesn't remain in the family, that's when you would need to have that separation. But, if it does remain within the family, even at the time of final plat approval, it becomes a subdivision and therefore two lots. I would think that by then you need the easement.

Mike Sehestedt: Well, I think...we've provided for...they have an access easement, it's good to go now at the time the plat is filed. When they sell Lot 1, their either needs to be a reserve easement across Lot 1 serving their property or that easement needs to end and they need to access their property from Flora. At the time that they need to use the Flora access, we'll need Public Works and Fire approval of that crossing and to keep this from becoming a shortcut throughway, we probably need to close at least a portion of that driveway on Lot 1.

Commissioner Curtiss: So, it seems that the first sentence of condition two if it read, 'the portion of the existing driveway to be abandoned extending south of the building site on Lot 1 across the property line to Lot 2 be removed and revegetated prior to building permit approval for Lot 1,' period end of sentence. That way....just because you file your final plat doesn't mean you've sold it, doesn't mean you've got your new house built it doesn't mean that you're ready to abandon that road so that would allow them to drive across it as long as they owned both of them.

Mike Sehestedt: The alternative is to just follow the second half of that which says, 'or reserve the driveway easement across Lot 1 for the benefit of Lot 2,' forever amen.

Commissioner Curtiss: But wouldn't a title company or someone like that decide that if they were going to leave that road in that they would need to have some sort ingress/egress agreement? So, I'm just wondering if you can do one and not the other.

Mike Sehestedt: Reserving it on the plat reserves an access and the right to use it.

Commissioner Curtiss: Unless it's abandoned.

Mike Sehestedt: So having done that, it doesn't address all of the maintenance issues and that's why we have a driveway maintenance agreement as well if they chose that option. Then....

Commissioner Curtiss: So you're saying that they way it's written without the strikeouts, the way it was originally proposed it the best way to leave it?

Mike Sehestedt: I think it lets Ron do it either way. Either this is going to be the access to both sites and if it's going to be the access to both then we have (a) shown as an easement on the plat burdens Lot 1 or (b) that's the way we're going to go. We have a joint driveway maintenance agreement that spells out what each party is supposed to do.

Commissioner Carey: So, we're back then again to the original staff recommendations?

Ron Ewart: I think what Commissioner Curtiss brought up is a good idea. You say prior to building permit approval on Lot 1. Now because they're going to build on Lot 2 first, so let's say someday they come in for a building permit on Lot 1 and they want to continue using the through road then at that time they would have to create the easement. So, I think the way it's worded with that existing strikeout – if you just add 'on Lot 1,' after building permit approval then I think that would meet everyone's goals.

Commissioner Curtiss: So that would happen before you built on Lot 1, you would either have an easement or you would revegetate and take the road away, but it wouldn't show on the plat. Is that a problem, Mike?

Mike Sehestedt: If we don't resolve...we need to resolve when we file the plat how the heck they're going to get to Lot 2 on a long term basis. Because one way we've got...if they're always going to come in from Big Flat Road and we don't give a hoot about crossing the irrigation ditch because the fire trucks are going to come in and everything else is going to come in from the Big Flat side, we just need a turn around. They never cross the irrigation ditch so we could drop all of that out. On the other hand, if the long term access for the existing home is going to be from Flora over the irrigation ditch, then we need to address the irrigation ditch crossing and have it approved by Public Works and the Fire Department. What Ron wants is to have it both ways...we'll have this as long as we want it and then we'll have the other whenever we want it and maybe they'll connect and maybe they won't. I think we need to define what we're going to do before we approve the subdivision.

Commissioner Carey: And the original recommendations from the staff do that, correct?

Mike Sehestedt: I believe so.

Commissioner Evans: You know what amazes me? Is we have subdivision after subdivision where we insist and the Planning Board has said 'we'll just put the road right down between this piece of property.' negating a piece of land and the whole subdivision would go away in the name of connectivity. And now here we're saying we don't want any connectivity. I wish we'd get consistent on something once in a while!

Mike Sehestedt: This isn't really...and frankly, Barbara, if we wanted this to be connective, we'd build it to something other than driveway standards and open it to the public.

Commissioner Evans: Maybe so, but it seems to me that we're making much ado about nothing here!

Mike Sehestedt: It doesn't matter to me which course they choose, I'm just saying they need to make a decision or get off the pot. If they want to have their access to both lots via a private driveway as it currently exists subject to showing that on the plat and having a driveway maintenance agreement that's swell. They can just come in and do it that way. If they want to do it the other way and have Lot 1 access off Big Flat and then long term Lot 2 access off Flora, then we need to address the driveway access, the physical part of the emergency services being able to get to the building site which is that crossing of the canal. They've got Flora, the canal and where they're going to put the house on Lot 2.

Commissioner Curtiss: Can the language on the plat actually read that this portion of the road shall be abandoned or driveway easement done....can that kind of language be that detailed on a plat at the point of which Lot 2 is built upon?

Mike Sehestedt: Lot 2 is going to be built upon right way....

Commissioner Curtiss: I mean Lot 1.

Mike Sehestedt: Have a building permit issuance....I just....

Commissioner Curtiss: I'm trying to figure out what would be written on the plat.

Mike Sehestedt: I really just hate this because what's going to happen, with all due respect to everyone involved in all the good faith in the world, is we're going to approve this with the driveway easement coming down here. Then a couple years from now, they're going to poke a driveway down over this culvert...they don't need any permission from us or anything else...and they're going to say, 'okay we're going to give up...we're going to sell Lot 1 and release our easement on it.' Which is all swell, except that we now have Lot 2 with access for emergency vehicles over an entrance that we haven't reviewed to see if it's big enough to take a fire truck or an ambulance or anything bigger than a four wheeler. Part of subdivision is to make sure you have that sort of access, so...

Commissioner Carey: Michael, in condition two, if we did as Commissioner Curtiss suggested we might do...put in 'for Lot 1' after building permit approval and then struck the rest of that condition, doesn't that ease your worries?

Mike Sehestedt: Sure, if we do it. It eases my worries in the sense that we have a record way to get theirs shown on the face of the plat.

Commissioner Carey: It seems like we...

Mike Sehestedt: If that's the way we do it, maybe if we had a one foot no access strip on Flora drive then they won't be able to...

Commissioner Curtiss: If you read the whole thing, they plan to definitely come in from Flora drive for Lot 1.

Mike Sehestedt: Right. What I'm saying, my suggestion was that we simply trigger the requirement for approval of the canal crossing and the access from Flora Drive and require the vacation of a little bit of that driveway upon the issuance of a building permit for Lot 1. Does that make sense? That would let them do this until Lot 1 is built on.

Commissioner Curtiss: Actually the way it's triggered here is that in condition three that they have to get the....in order to build the new house on Lot 2 which is here the existing home is now, prior to building permit approval they have to fix the driveway.

Mike Sehestedt: I'm saying we could switch that so it's building permit approval for Lot 1. Given what was represented here....

Mirtha Becerra: So, condition three would read Lot 1.

Commissioner Curtiss: So they could build a new house and continue to access from Big Flat Road.

Mike Sehestedt: Right up until the time they peddle Lot 1. At that point...

Commissioner Carey: Why would you build a new driveway to Lot 1, it's already got a driveway?

Mike Sehestedt: Lot 1 wouldn't get a new driveway, it would be Lot 2 then has to have the new driveway.

Commissioner Carey and Mirtha Becerra: So that's how that new condition reads now.

Commissioner Carey: We're going around and around her folks.

Commissioner Curtiss: I think what he's saying is currently it says that if they're going to build a new house on Lot 2 which is where the house is now, that they come through Lot 1. If they're going to build a house on Lot 2 they have to get the road built to Flora. What Mike is suggesting is that they could continue to use the existing driveway to the new home on Lot 1 unless they'd already sold Lot 1.

Mirtha Becerra: On Lot 2.

Commissioner Curtiss: Right, on Lot 2. But if they sell Lot 1 and somebody's going to build a house on there then they have to have their other road.

Mike Sehestedt: At that point they have to get the access through...the canal crossing has to be approved and builder expanded. Driveway access goes away and they're then....

Mirtha Becerra: So in essence, we're conditioning to...

Mike Sehestedt: If they weren't going to be building their house on one and this was a typical spec developer, we'd say build an access build an access or dedicate an easement and this is it. What we're getting is we want it both ways, we want to be able to use this forever as our access except that if we don't want to use it and want to be able to come this way.

Commissioner Evans: That doesn't bother me in the slightest.

Mike Sehestedt: It doesn't bother me either as long as that canal crossing gets inspected for emergency services. If it's reviewed and approved and constructed to permit emergency vehicle access.

Commissioner Evans: I have no problem with that either.

Mirtha Becerra: I would like to point out that the recommendations and conditions are based on what was proposed with this subdivision. What it says here is that this driveway access will serve only Lot 1 as Lot 2 will be served by a future access off of Flora Drive. So based on that statement, that's how we constructed these conditions of approval and now it seems like it's changing a little bit from this, so I think we need to change the conditions, too.

Mike Sehestedt: What has happened is they don't have any immediate intention to sell Lot 1, therefore they don't want to incur the expense associated with performing on their subdivision application approval at this time.

Commissioner Evans: I would want anything referring getting in touch with the ditch company removed. The reason for that is it's virtually impossible to reach anyone at the ditch companies. You can call and call and call. I've had two calls this week about the ditch company, they can't reach anyone. But I'll bet you if someone is crossing the ditch which already has a culvert and the ditch company doesn't like it, they'll contact him.

Mirtha Becerra: Originally we did have only Public Works and the fire department, but it was after our planning status meeting that we added that, so....

Commissioner Evans: I'm not fussing at you, I'm just telling you the ditch company is virtually impossible to get to and impossible to deal with once you've got them.

Commissioner Curtiss: But if they have to replace the culvert, they have to have permission of the ditch company.

Mike Sehestedt: Yes. This isn't Missoula Irrigation.

Commissioner Evans: I know that, I'm well aware of that.

Ron Ewart: I think just to put things in perspective, I'll just throw this out...if number one went away because it's covered in three and then number two stay exactly the same except for after building permit approval, we add Lot 1. Then it would be the same strike out. With number three just take out ditch company and I think that would take care of it all.

Commissioner Curtiss: Ron, in visiting with the Hibbitts, would they prefer to add to number three, the building permit approval for Lot 1 so they can continue to access their current home by that long driveway until someone builds on Lot 1?

Ron Ewart: That would be fine, except for the fact that they're planning now to use out to Flora.

Commissioner Curtiss: Okay, then that's not in use. I have a suggested change to try to incorporate number one into three, so three would read as it does now....

Commissioner Carey: But striking appropriate ditch company?

Commissioner Curtiss: Well...I think that...we could take it out of right there, because what I was going to incorporate was then to have it read like it does, but insert, 'if the Missoula County Public Works or Missoula Rural Fire Department approval recommends that the driveway crossing over the Big Flat Ditch requires an alteration then the engineering plans for the bridge drainage structure over the irrigation ditch for the new driveway be approved as well.' Then you would need the ditch company.

Commissioner Evans: Yes and I have no problem with that suggestion at all.

Commissioner Curtiss: I'll work on how to word that.

Ron Ewart: For the record, on number two if we leave it the way we were talking, the plan would be for them to abandon that southern part of the driveway on Lot 1 at the time of building permit issuance for Lot 1 as opposed to the easement.

Mike Sehestedt: Yes. What it would say is, 'A portion of the existing driveway to be abandoned extending south of the building site on Lot 1 across the property line to Lot 2 shall be removed and revegetated prior to building permit approval for Lot 1. And that portion of the driveway to be abandoned shall be noted on the plat.'

Ron Ewart: That part was struck out on the alternative.

Mike Sehestedt: Okay.

Commissioner Curtiss: Do you think that's okay to have that out of there? For one thing since we now have the building permit coming from Public Works, we are going to trigger ourselves on some of this stuff.

Commissioner Carey: So we start with a capital A on alternatively, are we going to keep that in?

Ron Ewart: You can if you want, but it's not going to matter because...

Mike Sehestedt: Let's take it out. They don't want it and frankly it's not good marketing anyway.

Commissioner Evans: Will someone read the finalized version of number two please?

Commissioner Curtiss: Number two would be the new number one if we incorporate one into three.

Mirtha Becerra: So number one is out?

Commissioner Curtiss: It's going to get incorporated into three.

Mirtha Becerra: Right, but as it exists right now it'll be gone.

Commissioner Curtiss: Right.

Mike Sehestedt: Want me to try reading it?

Commissioner Evans: Please.

Mike Sehestedt: The portion of the existing driveway to be abandoned extending south of the building site on Lot 1 across the property line to Lot 2 shall be removed and revegetated prior to building permit approval for Lot 1.

Commissioner Carey: And the rest is stricken? Okay, that's the new condition number one. New condition number two, do you have any wording for that Commissioner Curtiss?

Commissioner Curtiss: It would read as the original did, so not have the ditch company wording in it, but then we would add to that, 'if alterations for the new driveway across Big Flat Ditch are required, then engineering plans for the bridge or drainage structures over such ditch shall be approved by Missoula County Public Works, the appropriate ditch company and Missoula Rural Fire, prior to building permit approval.'

Commissioner Carey: Okay, so that's the new number two. And then all the rest of the conditions will just be renumbered accordingly.

Commissioner Evans & Jean Curtiss: Right.

Commissioner Carey: Okay, can we move forward?

Commissioner Evans: Does that meet with your approval?

Ron Ewart: Yes, I think so. Thank you.

Commissioner Curtiss moved to approve the variance request from Article 3-2(3)(b) requiring a minimum surfacing width of 24 feet for rural subdivisions outside the UGA based on the findings and fact in the staff report. Commissioner Evans seconded. The motion carried on a vote of 3-0.

Commissioner Curtiss moved to approve the Hibbitts Flats Subdivision subject to the recommended conditions of approval as amended today based on findings and fact in the staff report. Commissioner Evans seconded. The motion carried on a vote of 3-0.

Conditions of Approval:

Roads and access

1. A portion of the existing driveway to be abandoned extending south of the building site on Lot 1 across the property line to Lot 2 shall be removed and revegetated prior to building permit approval for Lot 1. And that portion of the driveway to be abandoned shall be noted on the plat. (*Missoula County Subdivision Regulations Article, 3-2(1)(H), County Public Works recommendation and Board of County Commissioners recommendation*)
2. Lot 2 shall be accessed by a new driveway that meets subdivision standards and plans for the driveway shall be approved by County Public Works and Missoula Rural Fire Department, prior to building permit approval. Driveways in excess of 150 feet in length shall incorporate a turn around for fire apparatus at the terminus of the driveway. If alterations for the new driveway across Big Flat Ditch are required, then engineering plans for the bridge or drainage structures over such ditch shall be approved by Missoula County Public Works, the appropriate ditch company and Missoula Rural Fire, prior to building permit approval. (*Missoula County Subdivision Regulations Article 3-2(10)(E), Missoula Rural Fire District recommendation and Board of County Commissioners recommendation*)

3. Plans for address signage for each property visible from the street in all light conditions shall be reviewed and approved by Missoula County Public Works and Missoula Rural Fire District prior to final plat approval. *(Missoula County Subdivision Regulations Article 3-2(2)(G))*

Water and Sewer

4. The following statement shall appear on the face of the final plat:
"Acceptance of a deed for Lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water and sewer systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owner of the land."
(Missoula County Subdivision Regulations Article 3-1(6))

Floodplain

5. Pre and cost construction elevation certificates are required for new construction on Lots 1 and 2, documenting that the lowest floor and the driveway access is two feet above the elevation of the 100 year flood prior to building permit approval. *(Missoula County Subdivision Regulations Article 3-1(2) and recommendation of the Floodplain Administrator)*
6. A note shall be placed on the final plat indicating that Hibbitts Flats contains 100 year floodplain Zone AH with a regulatory flood elevation of 3074 feet NCVD as per FEMA panel #1170 dated August 16, 1988 prior to final plat approval. *(Missoula County Subdivision Regulations Article 3-1(2) and recommendation of the Floodplain Administrator)*

Ditch Easement

7. The water rights to the Big Flat Irrigation ditch shall be removed for Lot 1 through an appropriate legal or administrative process reviewed and approved by the County Attorney's office prior to final plat approval. A statement indicating the removal of the water rights shall be provided on the final plat prior to final plat approval. *(MCA 76-3-504(i)(j), and Missoula County Subdivision Regulations Article 4-1(13))*

Fire Protection

8. Installation of interior residential fire sprinklers that meet NFPA 13D standards are required in each new home for the purposes of fire protection. Plans for installation of interior residential fire sprinklers are subject to the review and approval by the Missoula Rural Fire District prior to building permit approval. *(Missoula County Subdivision Regulations Article 3-7(1)(E) and Missoula Rural Fire District recommendation)*
9. The following statement shall appear on the face of the plat:
"Acceptance of a deed for a Lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water systems for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owner of the land." *(Missoula County Subdivision Regulations Article 3-7(2))*

Development Covenants

10. The development covenants shall be amended as follows and these sections shall be included in the list of sections under "Amendments" that may not be changed or deleted without governing body approval:

Fire Protection

The approved water supply for fire protection shall be added to the development covenants. If the method for fire protection is interior residential fire sprinklers, the following note shall be added to the development covenants:

"Installation of interior residential fire sprinklers that meet NFPA 13D standards are required in each new home for the purposes of fire protections. Plans for installation of interior fire sprinklers shall be approved by the Missoula Rural Fire District prior to building permit approval. Failure to install interior residential sprinklers in any new home may subject the entire subdivision to the cost of installation of a shared water source for fire fighting purposes." *(Missoula County Subdivision Regulations 3-7(1)(E))*

Driveway Requirements

The Development Covenants shall be amended to add driveway requirements which include minimum 12 foot width, minimum 20 foot unobstructed and 13'-6" vertical clearance, turn around for fire apparatus for driveways in excess of 150 feet in length, and the requirement for removal and revegetation of the abandoned portions of the existing driveway, subject to review and approval of OPG, prior to final plat approval. (*Missoula County Subdivision Regulations Article 3-2(1)(E), Missoula County Public Works and Missoula Rural Fire District recommendations*)

Road and Address Signs

The Development Covenants shall be amended to include the signage plans approved by County Public Works Department and Missoula Rural Fire District.

Radon

The Development Covenants shall be amended to add a section on radon, including the statement on Radon mitigation as recommended by the City-County Health Department in the agency comment letter. (*Missoula County Subdivision Regulations Article 3-1(2) and Health Department recommendation*)

Irrigation Ditch

Water rights to the Big Flat Irrigation Ditch have been removed for Lot 1. However, the land is classified as irrigated and may continue to be assessed for irrigation water delivery even though the water may not be deliverable. (*MCA 76-3-504 (i)(j) and Missoula County Subdivision Regulations Article 4-1(13)*)

Floodplain

Dwelling units within the Hibbitts Flats subdivision shall not be built with full basements. Pre and post construction elevation certificates are required for new construction on Lots 1 and 2, documenting that the lowest floor and the driveway access is two (2) feet above the 100 year flood elevation. (*Missoula County Subdivision Regulations Article 3-1(2) and Floodplain Administrator*)

Living with Wildlife

Article I, Section 9 "Wildlife" of the Development Covenants shall be replaced with the following, subject to review and approval by OPG prior to final plat approval and may not be changed or deleted without governing body approval. (*Missoula County Subdivision Regulations 3-1(2) and (10) and Montana Fish, Wildlife and Parks recommendation*)

Section 9 – Living with Wildlife: Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, black bear, mountain lion, coyote, fox, skunk, raccoon and magpie. Please contact Montana Fish, Wildlife and Parks in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see Fish, Wildlife and Parks website at www.fwp.mt.gov.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.

- b. **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because rotting vegetable material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be eight (8) feet or taller. Netting over gardens can help deter birds from eating berries.
- c. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting wildlife such as bears and raccoons. If stored indoors, garbage cans should not be set out until the morning of garbage pickup and should be taken back indoors no later than the evening of garbage pickup.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Birdseed** is an attractant to bears. Use of bird feeders is not recommended April 1 through the end of November. If used, bird feeders must: a) be suspended a minimum of 20 feet about ground level, b) be at least four (4) feet from any support poles or points and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by birds.
- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law, it is illegal for dogs to chase hoofed game animals and the owners may also be held guilty (MCA 87-3-124)
- g. **Pet food and/or livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons and other wildlife. **When feeding pets (and/or livestock)** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors and permanent outdoor barbecue grills are discouraged. Keep all portions of the barbecues clean. Food spills and smell on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3 ½ feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- j. **Compost piles** can attract skunks and bears and should be avoided. If used, they should be kept indoors or built to be wildlife resistant. Compost piles should be limited to grass, leaves and garden clippings and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)

- k. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife and Parks or the U.S. Fish and Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- l. Purchasers of lots within this subdivision must recognize that this subdivision is within about one-third mile of the Clark Fork River where lawful **water foul hunting** and the associated discharge of shotguns could occur from early morning until sunset and the season can run from September to January.
- m. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (County Commissioners).

HEARING

Country Crest 3A, Lot 28 (Subsequent Minor Subdivision – 2 lots on 1 acre) – Peregrine Loop

Commissioner Carey opened the hearing.

Mirtha Becerra: This is a request from Kenneth and Carol Knieper to subdivide a one acre lot into two residential lots. The property meets zoning and it meets a comprehensive plan. It's on Peregrine Loop and there are two variance requests. One is for sidewalks and the other is for curb and gutter to not put them in at this time along Peregrine Loop. There are....

Commissioner Evans: Would you explain at the same time that you're discussing that, that this is in a subdivision that has previously been done and those are the same conditions that were applied to the previous parts. Somebody watching this wouldn't know that.

Mirtha Becerra: I see. This is part of Country Crest. The subdivision was platted in 1996 and many new subdivisions have been approved with similar conditions of approval. They deal with things like RSID's for community water systems, road improvements and amending the covenants. With this subdivision there are seven conditions of approval, eight, I'm sorry. And they are the same as they have been for all the other ones, so I'll spare you the reading of those. But I would like to point out that condition number seven under development covenants has been amended. This is based on previously adopted subdivisions in the Country Crest area. What it does is it eliminates the sentence or a few words that read....it would essentially read, 'the subdivider shall file a development covenant which includes the following sections subject to review and approval by OPG prior to final plat approval,' instead of having the Health Department review those because they are the ones who provide a lot of that language so it would be redundant.

Commissioner Carey: Thank you, would the developer's representative care to speak to this?

John Kellogg with Professional Consultants: We're representing the Kniepers. We appreciate Mirtha's review of the proposal and we're in agreement. I think the entire audience is in support of the approval.

(laughter)

John Kellogg: I wanted to emphasize also to follow up on what Commissioner Evans mentioned regarding the variance requests. The ultimate result of these multiple subdivisions in this development will mean that sidewalks, curb and gutter are going to be installed, but they'll be done in a uniform fashion when enough waivers of the right to protest the SID are achieved.

Seeing no public comment, Commissioner Carey closed the hearing.

Commissioner Curtiss: I think it's probably also good to...since our meetings are now being filmed and folks can watch them, to point out that the subdivider will contribute \$230 per new lot to mitigate the impact of additional development to help signalize in the area of Flynn and Mullan Road and \$815 per new lot to help mitigate the Reserve Street/Mullan Road intersection. So we are beginning to collect this money to help to improve the traffic congestion that we know happens in that area.

Commissioner Carey: Thank you Commissioner Curtiss, that's a good point.

Commissioner Curtiss moved to approve the variance requests for requiring installation of boulevard sidewalks and curb and gutter that are listed as number one and number two. Commissioner Evans seconded. The motion carried on a vote of 3-0.

Commissioner Curtiss moved to approve Country Crest 3A, Lot 28 Subdivision based on findings and fact, subject to recommended conditions of approval that are in the staff report. Commissioner Evans seconded. The motion carried on a vote of 3-0.

Mike Sehestedt: How many of the lots in Country Crest have now been divided since we extended sewer to that area?

Mirtha Becerra: I don't have an exact number, but it's...I think it's approaching that 50% of the requirement to be annexed. There will be 10 more lots coming in fairly soon, so a total of 20 more all together.

Mike Sehestedt: So we're getting very close to having doubled this subdivision which was originally approved with the requirement to build on one of the lot or the other for the very purpose of anticipating this sort of infill. Thank you.

Seeing no further business, Commissioner Carey recessed the hearing at 2:45 p.m

Conditions of Approval

Roads and Access

1. The subdivider shall contribute \$230 per new lot to mitigate the impact of additional development by assistance in signaling the Flynn/Mullan Road intersection and \$815 per new lot to mitigate the impact of additional development on the Reserve Street/Mullan Road intersection. Payment of this contribution shall be verified prior to final plat approval. *Missoula County Subdivision Regulations Article 4-1(12)*
2. The following note shall appear on the face of the final plat:
"Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Peregrine Court, including, but not limited to, paving, the installation of drainage facilities, curbs and gutters, pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land." *Missoula County Subdivision Regulations 3-2(3)(E)*

Fire

3. Plans for installing NFPA 13D standard residential fire sprinkler systems in all new dwellings in the Country Crest No. 3B, Lot 45 Subdivision shall be reviewed and approved by the Missoula Rural Fire District prior to submittal for a zoning compliance permit. This language shall also be included in a development covenant and shall not be deleted or amended without governing body approval. *Missoula County Subdivision Regulations Article 3-7(1)(6)*
4. The following statement shall appear on the face of the final plat:
"Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a future RSID/SID for a public or community water system for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land."
Missoula County Subdivision Regulations 3-7(2)
5. All residences within this subdivision shall post address signs visible from public streets in all light conditions. Plans for visible addressing shall be reviewed and approved by the Missoula Rural Fire District and shall be included in a development covenant, prior to final plat approval. *Missoula County Subdivision Regulations Article 3-2(2)(G)*

Weeds

6. The subdivider shall file a development covenant requiring lot owners to revegetate any ground disturbance with beneficial species at the first appropriate opportunity after the disturbance

occurs, subject to review and approval by the Missoula County Weed District prior to final plat approval. *Missoula County Subdivision Regulations 3-1(1)*

Development Covenants

7. The subdivider shall file a development covenant which includes the following sections, subject to review and approval by the Office of Planning and Grant prior to final plat approval:

Radon

According to the Missoula City-County Health Department, the Environmental Protection Agency has designated the Missoula area as having high radon gas potential (Zone 1). Therefore, the Missoula City-County Health Department recommends that all new residences incorporate radon resistance construction features. (*Missoula County Subdivision Regulations 3-1(2) and Health Department recommendation*).

Other

"The Missoula City-County Air Pollution Control Program regulations prohibit the installation of wood-burning stoves or fireplaces. Pellet stoves that meet emission requirements or natural gas or propane fireplaces may be installed. Pellet stoves require an installation permit from the Health Department." (*Missoula County Subdivision Regulations 3-1 (1)(G)*)

8. The newly created lots shall contribute to sewer RSID 8486 in the amount specified in the resolutions, prior to final plat approval. If the Missoula County code enforcement program is in force, payment will be due at time of permit issuance.