

PUBLIC MEETING – FEBRUARY 28, 2007

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Jean Curtiss, Chief Civil Deputy County Attorney Mike Sehestedt, and Assistant Public Works Director Tim Elsea. Commissioner Bill Carey was absent due to illness.

Pledge of Allegiance

Public Comment

Routine Administrative Actions

Commissioner Curtiss moved that the Board of County Commissioners approve the weekly claims list in the amount of \$1,061,098.26. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Proclamation: Leslie McClintock Day

Chairman Evans opened the proclamation and asked Leslie McClintock to stand up.

Commissioner Curtiss presented the proclamation.

Whereas, Leslie McClintock has been an employee of Missoula County for 25 years, 16 of which she's been the supervisor of the Office of Planning and Grants City/County Crime Victim Advocate Program; and whereas, Leslie has tirelessly, joyfully, steadfastly, and with great humor performed her job in dark basements, cramped cubicles, offices with sloping floors, and sometimes uninvited small creatures; and whereas, Leslie, after enjoying an office with a window for a few years, has decided to retire; and whereas, Leslie has, over the past 25 years, successfully competed more than \$6.2 million in grant funds, combined with another \$2 million in local funds, that have been used to build and sustain social services programs, including Missoula's nationally-recognized Crime Victim Advocate Program, which has provided advocacy services, shelter, and economic justice for more than 17,200 victims of violence, primarily victims of domestic violence; and whereas, the number of lives that have been saved because of Leslie's work and that of her staff will never be known; and whereas, Leslie has been a mentor, leader, and supporter of countless community partners and co-workers as they joined her in her vision of a community free of intimate partner violence; and whereas, Leslie in partnership with other dedicated individuals, most recently worked on the Women's Economic Justice Project, Missoula Healthy Indian Families Consortium,, and the Beyond Trauma Committee, while continuing her dedication to direct services; and whereas, the one thing Leslie was never able to master was the art of being succinct, therefore, her nickname of "Bullets" will be immortalized. Now, therefore, we, the Mayor of the City of Missoula and the Board of County Commissioners of Missoula County, do hereby jointly and succinctly, proclaim Wednesday, February 28, 2007, as Leslie McClintock Day and invite all citizens to join in recognizing Leslie and her contributions to the people of Missoula.

Decision (from February 21, 2007): Petition to Alter a Portion of Cooney Creek Road - off Highway 83

Chairman Evans opened the hearing.

Mike Sehestedt presented the staff report.

What we have is the written report dated February 26, 2007 by the road viewers, who were Chuck Wright, Assistant Public Works Director/County Surveyor, and Commissioner Carey. They said they find no problem with the alteration of that portion of Cooney Creek Road right-of-way as shown on the attached Exhibit A. Attached Exhibit A shows the area to be altered and essentially my understanding is this alteration will place the right-of-way in the same location that the road is currently located.

Chairman Evans: Thank you, Michael. Is there anyone who has any comments on this subject? There being none, I would accept a motion.

Commissioner Curtiss made a motion that the Board of County Commissioners approve the petition to alter a portion of that certain county road specifically described as Cooney Creek Road, located in SE ¼ NE ¼ Section 1, T20N, R17W from the south line of Tract described in Book 725 of Micro, Page 454 to northerly to a line lying 30 feet southeasterly of the center line of Cooney Creek Road and further described in the Road Book of the Missoula County Department of Public Works Surveying Division as Cooney Creek Road (Book 212 Deeds, Page 612 -- Deed Exhibit 870. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Hearing: Update & Revise Current Excavation Policy for Excavator Requirements

Chairman Evans opened the hearing.

Tim Elsea presented the staff report.

This is a proposal to change the resolution, the existing excavation policy. Some of this is just for housekeeping measures and some is to alter the resolution substantively. You have in the packet in front of you the highlighted areas of the changes of this resolution. Would you like for me to go through them one by one or how would you like me to do this?

Chairman Evans: Looking at the size of the package, I don't think we want to go through them one-by-one, do you Jean?

Commissioner Curtiss: There are only a few highlighted however.

Chairman Evans: Then just read the highlighted ones Tim if you would.

Tim Elsea: The first change is just housekeeping. It says that the work must be performed in strict accordance with acceptable construction practices and the change begins there at, "applicable Missoula County standards and special provisions or conditions placed on the permit." This is for clarification that if we write something on the permit that that has to be adhered to, as well as the standard. The second one is a change--before it was ambiguous how the County needed to be notified that this work was going to take place and now this just clarifies that after the permit is issued is when we get notified. The third change limits the number of permits that any contractor can have for public utility contractors, they'll be allowed 20 open permits at a time. General utility contractors will be allowed five open permits at a time. This just is an effort to help us close out open permits that are out there that should not--we don't foresee this to be a problem for any of the contractors. In E, under Survey Monumentation, we--it says, "Any survey monument in danger of disturbance shall be referenced by a professional land surveyor...." Prior to this, it said, "should be,"--clarifying that. The next change, "Cutting of surface Material," we have added, "Asphaltic concrete surface shall be cut utilizing a power saw. On a case by case basis in older pavements, the County may allow" a different form of cutting. The paragraph after that clarifies that we don't want slivers in the roadway and therefore that we may require the contractor to cut outside of the limits of excavation to eliminate those slivers and also requires that the cuts be perpendicular and parallel to the road travel surface. The next change is just housekeeping that all excavation shall follow current OSHA guidelines. Again, the one after that is housekeeping and clarification. Before it just said that the excavation had to be compacted and now it says each layer has to be compacted. Next change is housekeeping, just clarifying the standard that will be used for compaction and the final paragraph there, sentence, allows Missoula County to have an independent testing lab come out and check compaction if we're unhappy with the techniques used for compacting efforts and that would be at the contractor's expense. The following two are housekeeping just to clarify the standards. [Inaudible] bonding and insurance, we are--prior to this, we had required a bond of \$100,000. This lowers the bond to \$50,000 for public utility companies and \$20,000 for general contractors. We found that the higher bond was onerous. The final change is the penalties and basically, there is no penalty for first-time offense, second-time offense will result in a penalty of two times the amount of the excavation permit, and all further offenses shall result in a \$500 penalty per occurrence and we don't foresee it getting to #3.

Commissioner Curtiss: So the penalty amount, if the contractor had one today, one in two years, one in three years, this is per each contractor, not each time in one job, right?

Tim Elsea: That is correct.

Chairman Evans: Thank you, any other questions? Is there anyone in the audience who'd care to comment on this?

Commissioner Curtiss: So, Michael, is this an official hearing and so...

Chairman Evans: Yes, it is an official hearing.

Tom Russell: I didn't plan to talk on this, but my question arises following Commissioner Curtiss. I'm Tom Russell, 2846 Lorraine, Missoula County. Far as the penalties go, large companies such as Qwest that has lots of digging and so forth, if they mess up two times, then there in the third penalty phase forever and ever, is that the way that's to be read?

Tim Elsea: The penalty is for non-compliance. In other words, not getting a permit and so, yes, if they don't get a permit, they would be, from then on out, in the \$500 range.

Tom Russell: But it wouldn't necessarily be for if they fail to compact [inaudible] accurately or...?

Tim Elsea: No, [inaudible].

Tom Russell: Thank you.

Chairman Evans: Any other comment? There being none, we'll close the public hearing and accept a motion.

Commissioner Curtiss made a motion that the Board of County Commissioners adopt the resolution revising the Excavation Policy as presented by the Public Works Department to clarify wording, limit the number of permits issued, allow provisions for contractor funded testing requirements, reduce the bond amount required from \$100,000 to \$20,000 for General Contractors and from \$100,000 to \$50,000 for Public Utility Contractors, and to change the provisions for penalties. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Hearing: Starvation Creek Acres (11 lots on 13.79 acres) - South of Clinton on Highway 10 East

Chairman Evans opened the hearing.

Tim Worley, Office of Planning and Grants, presented the staff report.

I'm here to present Starvation Creek Acres, a major subdivision proposal by Kendall and Alice Cleaves. This will be an 11 lot major subdivision on 13.79 acres. This subdivision is located in an unzoned location where the Comprehensive Plan recommends primarily one dwelling per five acres.

There is a small portion of the property that is recommended for open and resource uses as well. The Clinton Irrigation Ditch runs alongside a portion of this subdivision. There is one condition related to this requiring lots to have access to irrigation water or that the water rights be removed. There are two private roads proposed with this subdivision, Kendall Lane and Alice Jean Lane. They will be improved to the 24-foot County standard. There is one condition related to this that requires review and approval of plans for paving these two roads. There is one variance being requested to the hammerhead turnaround on Alice Jean Lane, which was supported by the Planning Board. Since Highway 10 East provides primary subdivision access and it is part of the state highway system, a condition of approval requires an approach permit for the subdivision. There's a shared driveway for Lots 1 and 2 and there is a recommendation for a shared driveway maintenance agreement. Also, that this shared driveway be reviewed before the buildings are built on Lots 1 and 2. There's an old Anaconda Company road easement that crosses the property. There's a condition related to this requiring this easement to either be abandoned, relocated, or shown on the plat. A Yellowstone Pipeline crosses a portion of the property. Yellowstone Pipeline, which is part of Conoco/Phillips, has specific encroachment guidelines for their pipelines and a condition requires compliance with these guidelines. This may include an encroachment agreement. The developer's requesting a variance from the requirement for internal pedestrian facilities. This was not supported by Planning Board. A condition of approval requires cash-in lieu of parkland because no parkland is being proposed for this major subdivision.

No water supply for firefighting was originally proposed with this subdivision. Clinton Rural originally recommended a 1000 gpm water supply for this subdivision, but supports use of a dry hydrant after speaking with the developer's representative. An adjacent pond would be used and there's actually a little graphic behind you that shows the location of the pond in relation to the subdivision, which is in green. Condition #12 is the condition

that we're dealing with and you'll see that in your Request for Commission action, that's all in underline, that was the Planning Board recommended condition. I have a memo in blue that makes some amendments to that Planning Board condition because the circumstances for the dry hydrant have changed slightly since it was first proposed. The hydrant will be located within Highway 10 right-of-way, west of the pond and it would be accessed by a 12-foot wide pullout. Addition wording, if you take a look at the memo, additional wording that I've just added today is in double underline for clarification. This condition requires the following. First of all, the hydrant must be installed prior to combustible construction. Second of all, there's going to be a requirement for proof of legal access to the hydrant site. This may require an easement, including an easement for the hydrant and the water line or proof of access to be shown on the final plat. Since the access drive is within Highway 10 right-of-way as proposed, an encroachment permit will also be required. They will have to obtain that the Montana Department of Transportation. Thirdly, the access drive as recommended by Planning Board will have to be 12 feet wide within a 30-foot easement or right-of-way. Again, as it's proposed right now, it's fully contained within Highway 10 right-of-way. This 12-foot access must be able to support emergency equipment in all weather conditions, must have approved ingress and egress, and be maintained as specified in the covenants.

An investigation of riparian plants was conducted on this property, but a Riparian Resource Management Plan was lacking in the submittal, so we're recommending this as a condition. This condition further requires that the riparian area and adjacent buffer be labeled as a no-improvement zone. Because of relatively high seasonal groundwater on the site, a condition prohibits basements in the subdivision. I should note that this information was already included in the covenants and Todd Klietz just wanted it highlighted as a distinct condition. Cluster mailboxes are recommended for the subdivision. That was a recommendation by the postal service. A small portion of the property is recommended as no-build zone to reflect slopes greater than 25%. In short, Planning Board recommended approval of Starvation Creek Acres.

I should note that there were five conditions that I didn't directly touch on because they are fairly routine conditions. Those were Conditions #2, #6, #7, #10, and #15. If you have any questions about those, I'd be happy to answer them.

Chairman Evans: Thank you, Tim. Is the developer or their representative here?

Kristin Smith: Good afternoon, Kristin Smith. I'm with WGM Group. I'm representing Kendall Cleaves for this project. We don't have any problems with the conditions as they've been presented by staff. We would, however, ask that you consider the variance request for the walkways only because those--the walkways would not connect with anything right now. They would be fairly small sections of walkway. There would be a waiver on the plat for future improvements in those right-of-ways, so we would just ask that you consider that. Thank you for the consideration of the rest of it and if you have any questions, I'm happy to answer them.

Commissioner Curtiss: Kristin, I have one question for you. In the covenants, I noticed that the type of building use pretty much outlaws the idea of being able to put a manufactured modular on the property. Is there a reason for that? It's one of the affordable ways people can put a house on property.

Kristin Smith: The developers specifically wanted that included in there, just to have a particular architectural style for the development. I don't know, I don't have any other answer than that.

Commissioner Curtiss: Okay, because you could have design standards for those...

Kristin Smith: You could.

Commissioner Curtiss: ...and accomplish that.

Kristin Smith: I'll mention that because these are still drafts, so he could consider those.

Commissioner Curtiss: I understand why you don't want it to look like a trailer court, which we all have pictures in our minds, but there are some very nice manufactured, built off-site homes that have 6/12 pitch roof and things like that that you can put on a foundation and have a nice home.

Kristin Smith: That's a good point.

Chairman Evans: Thank you, Kristin. Is there anyone who would like to comment on this subdivision, either in favor of or in opposition to? There being none, we'll close the public hearing and...

Commissioner Curtiss: Could I ask Tim one question? Tim, where's the Planning Board's proposal for--if you could clarify where they wanted the pedestrian connections. Would it be just along Alice Jean and the driveway or were they talking about along highway too?

Tim Worley: If there's one omission from Planning Board, it's that I didn't assist them in putting together a condition, they simply denied that variance. So I think in denial of the variance, they would have to put walkways along the entire private road network...

Commissioner Curtiss: On both sides?

Tim Worley: Well, let me take that back. The requirement is for internal pedestrian connections and in the County, and maybe Mike can speak to this, but we've viewed that a little more loosely, I guess you could say. So I don't know if you'd necessarily have to have pedestrian facilities on both sides of both of those private roads.

Chairman Evans: I would frankly prefer to a waiver of the right to protest so that when they area grows up and they have something to which to connect, then the waiver is there. But to have somebody put in sidewalks that go nowhere has never made sense to me.

Commissioner Curtiss: The only place I can see them going is so they could visit each other around here at this point, but it's not very far from Clinton either.

Mike Sehestedt: The fact these are private roads means that an RSID is not available to put walkways in. It would be available as a tool to build a walkway along the highway frontage where we do have public ownership for whatever that's worth.

Commissioner Curtiss: So Tim what you're saying is that, if I might Madam Chair, that internal pedestrian connections wouldn't necessarily mean five-foot wide paved sidewalks, it could mean a trail system or something?

Tim Worley: Exactly, it could be a gravel trail. I don't think it necessarily has to be on both sides. We've give quite a bit of latitude when it comes to that regulation.

Commissioner Curtiss: Because I know one thing people get concerned about is usually the bus isn't going to stop at every door, so like bus stops and that kind of thing, it's nice if they can be off-road to do that.

Mike Sehestedt: I would suspect that in terms of bus stop here, they'll stop where the public right-of-way ends. Same thing the post office wants, which is a cluster of mailboxes down on the public right-of-way. As I note from the plat, our maintenance ends, and state maintenance ends right at this subdivision on Highway 10.

Chairman Evans: Motions?

Commissioner Curtiss: My first motion would be to accept the blue memo with changes in wording ... water to the dry hydrant

Commissioner Curtiss made a motion that the Board of County Commissioners approve Condition of Approval #12, which reads, "Plans for a dry hydrant meeting NFPA 1142 standards for use in the offsite pond shall be reviewed and approved by Clinton Rural Fire prior to final plat approval, with hydrant installation to be complete by combustible construction. Proof of legal access to the hydrant shall be verified prior to final plat approval, and shall be shown on the final plat or in a document recorded at the County Clerk and Recorder's Office. The hydrant shall be physically accessible by a minimum 12-foot wide drive within a 30-foot easement with 20 feet of unobstructed width and 13 feet 6 inches vertical clearance and approved turnaround for emergency vehicles, and be able to support the weight of emergency equipment in all weather conditions. Maintenance requirements of the dry hydrant access drive shall be included in the covenants, with language to be reviewed and approved by Clinton Rural Fire prior to final plat approval" and the amended findings of fact with that condition as submitted by staff on February 28, 2007. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Mike Sehestedt: Jean, let me--for the record, that wasn't new information, it was a new formulation responding to the information we already had in the record.

Chairman Evans: Thank you, Michael.

Commissioner Curtiss: And there was more information since the Planning Board as to how they would get the water, which they recognized was a concern of Planning Board.

Commissioner Curtiss made a motion that the Board of County Commissioners approve the request to vary from the requirement for a turnaround with a 35-foot radius in Article 3-2(6)(C) based on the findings of fact set forth in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Curtiss made a motion that the Board of County Commissioners **deny** the request to vary from the requirement for internal pedestrian connections on Alice Jean Lane and Kendall Lane in Article 3-2(8)(A)(iv) based on the Planning Board findings of fact. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Curtiss made a motion that the Board of County Commissioners approve Starvation Creek Acres based on the findings of fact in the staff report and subject to the amended conditions, including the blue memo. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Starvation Creek Acres Subdivision Conditions of Approval

1. Plans for paving Kendall Lane and Alice Jean Lane to a 24-foot width shall be reviewed and approved by County Public Works to final plat approval. *Subdivision Regulations Articles 3-2(1)(I) and OPG recommendation.*
2. The name of the private roads in this subdivision shall be reviewed and approved by County Public Works, and the approved names shall appear on the plat prior to final plat approval. *County Public Works recommendation.*
3. Plans for the shared driveway serving Lots 1 and 2 shall be reviewed and approved by Clinton Rural Fire prior to building permit submittal for each lot. *Subdivision Regulations Article 3-2(10)(E) and OPG recommendation.*
4. A shared driveway maintenance agreement for the driveway serving Lots 1 and 2 shall be included in the covenants, to be reviewed and approved by the County Attorney's Office and OPG prior to final plat approval. This section of the covenants shall not be amended, modified, added to, or deleted without consent of the governing body. *Subdivision Regulations Article 3-2(1)(I)(iii) and OPG recommendation.*
5. An approach permit or permits for this subdivision shall be reviewed and approved by the Montana Department of Transportation prior to final plat approval. *Subdivision Regulations Article 3-2(1)(E) and MDT recommendation.*
6. The RSID waiver on the plat shall be revised to include Highway 10 East, with language to be reviewed and approved by OPG prior to final plat approval. *Subdivision Regulations Article 3-2(8)(A)(iii), 3-2(3)(E) and OPG recommendation.*
7. A signage plan in conformance with the Manual on Uniform Traffic Control Devices, including provisions for temporary signage during construction, permanent signage, and cost of installation to be included in the security deposit, shall be reviewed and approved by County Public Works and the Clinton Rural Fire District prior to final plat approval. *Subdivision Regulations 3 2(2)(F) and County Public Works recommendation.*
8. The Anaconda Company road easement crossing the property shall be abandoned, relocated or shown in its present position on the final plat, to be reviewed and approved by County Public Works (Surveying Division) and OPG prior to final plat approval. *Subdivision Regulations Article 5-1(4)(J) and OPG recommendation.*

9. Plans for construction across the Yellowstone Pipeline shall comply with Yellowstone Pipeline Company (YPL) Encroachment Guidelines and shall be reviewed and approved by YPL prior to final plat approval. If required by YPL a signed and executed Encroachment Agreement shall be returned to the utility. A copy of the Encroachment Guidelines shall be recorded with the subdivision covenants prior to final plat approval. *Subdivision Regulations Articles 4-1(11)(C)(i), 3-1(2) and Yellowstone Pipeline Company recommendation.*
10. The subdivider shall provide verification of approval from utility providers for location of utility easements subject to review and approval of County Public Works prior to final plat approval. *Subdivision Regulations Article 3-6 and County Public Works recommendation.*
11. The subdivider shall ensure that all lot owners have access to irrigation water, or have the water rights removed for Lot 1 and Lots 6-10 through an appropriate legal or administrative process, which shall be indicated by a statement on the final plat and in the covenants to be reviewed and approved by the Clinton Irrigation District and OPG prior to final plat approval. *MCA 76-3-504(1)(j), Subdivision Regulations Article 4-1(13) and OPG recommendation.*
12. Plans for a dry hydrant meeting NFPA 1142 standards for use in the offsite pond shall be reviewed and approved by Clinton Rural Fire prior to final plat approval, with hydrant installation to be complete by combustible construction. Proof of legal access to the hydrant and for the water line and hydrant shall be verified prior to final plat approval, and if necessary shall be shown on the final plat or in a document recorded at the County Clerk and Recorder's Office. Legal access verification shall include an approved encroachment permit from the Montana Department of Transportation (MDT). The hydrant shall be physically accessible by a minimum 12-foot wide drive within a minimum 30-foot easement or right-of-way with 20 feet of unobstructed width and 13 feet 6 inches vertical clearance and approved turnaround or ingress/egress for emergency vehicles, and be able to support the weight of emergency equipment in all weather conditions. Maintenance requirements of the dry hydrant access drive shall be included in the covenants, with language to be reviewed and approved by Clinton Rural Fire prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Clinton Rural Fire recommendation.*
13. Basements are prohibited in this subdivision. Article II, Section 22 of the covenants ("Basements") shall not be amended, modified, added to or deleted without consent of the governing body. *Subdivision Regulations Article 3-1(1)(B) and Floodplain Administrator recommendation.*
14. The developer shall incorporate a Riparian Resource Management Plan into the covenants for review and approval by OPG prior to final plat approval. A site map of the Areas of Riparian Resource plus an adequate buffer shall be attached to the Riparian Resource Management Plan. The final plat shall show the Areas of Riparian Resource and an adjacent buffer subject to review and approval of OPG. The riparian areas plus the buffer shall be labeled on the final plat as "Area of Riparian Resource—No Build/No Improvement Zone—see covenants for more information." *Subdivision Regulations Article 3-13 and OPG recommendation.*
15. A Revegetation Plan for disturbed sites shall be submitted to and approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Missoula County Weed District recommendation.*
16. All areas with slopes greater than 25% shall be designated No Build Zones on the plat and in the development covenants prior to final plat approval. *Subdivision Regulations Article 3-1(2).*
17. The covenants for Starvation Creek Acres shall be amended to include the following items, and these sections shall not be amended, modified, added to, or deleted without consent of the governing body:

Add the following to Article II:

a. Driveways

Dead-end driveways in excess of 150 feet must be approved by the Clinton Rural Fire District and a turn around must be incorporated at the terminus of the driveway. All driveways must provide 20 feet horizontal clearance and 13 feet 6 inches vertical clearance the length of the drive. The surface of the driveway must be engineered to support the weight of the emergency equipment in all weather conditions.

Amend Article II, Section 11 as follows:

b. Signs

At the time of construction completion, all permanent signs shall comply with the ~~Missoula~~ Clinton Rural Fire District standards and Manual on Uniform Control Devices (MUTCD) current edition.

Amend Article II, Section 17 as follows:

Weed Control

The landowner shall revegetate any ground disturbance caused by construction or maintenance with beneficial species at the first appropriate opportunity after ~~construction or maintenance is complete~~ the disturbance occurs.

Subdivision Regulations Article 3-2(10)(E) and OPG recommendation; Subdivision Regulations 3-1(1)(B) and County Weed District recommendation.

18. Article III, Section 4 of the covenants ("Amendment") shall be revised to include sections that may not be amended without Governing Body approval. These sections shall include Area of Riparian Resource Management Plan, Basements, Radon, Signs, Driveways, Driveway Maintenance Agreement, Weed Control, YPL Encroachment Guidelines, Irrigation Water Rights, Amendment and Living with Wildlife. *Subdivision Regulations Article 3-1(10), Fish Wildlife & Parks and OPG recommendation.*
19. Cluster mailboxes shall be installed in this subdivision in a location subject to review and approval by County Public Works and MDT prior to final plat approval. *Subdivision Regulations 3-2(15)(J) and USPS recommendation.*
20. The applicant shall provide proof of payment of cash-in-lieu of parkland subject to the review and approval of County Parks prior to final plat approval. *Subdivision Regulations 3-8 and County Parks recommendation.*

Consideration: Elk Meadows, Lots 51A & 51B (2 lots on 10.6 acres) - West side of Wambli Lane in Elk Meadows Ranchettes

Chairman Evans opened the consideration.

Zack Brandt, Office of Planning and Grants, presented the staff report.

This is the Elk Meadows, Lot 51A and 51B proposed subdivision on Wambli Lane, North of Huson, Montana in that area known as Elk Meadows. The owners are Donald Armstrong and David Stermtiz represented by Montana Northwest Company. This is a two-lot minor subdivision on 10.6 acres.

As way of background information, the property is located outside the floodplain, the urban growth area, and the Air Stagnation Zone. The property is currently vacant consisting mostly of thinned Douglas Fir and Ponderosa Pine with slopes ranging from near level to about 15%. The 1992 Inventory of Conservation Resources designates this area as crucial winter/summer habitat for elk. Lot sizes of the original certificate of survey were 10 acres or greater. Subsequent divisions have led to 26 new tracts ranging from 4.4 acres to 11.59 acres within the Elk Meadows Ranchettes area. The covenants filed for the Elk Meadows Ranchettes in 1974 permits lots as small as five acres in size. As proposed, each lot for this subdivision will be slightly greater than five acres.

The property is unzoned however, the applicable Comprehensive Plan is the 2002 Missoula Regional Land Use Guide based on the 1975 Missoula County Comprehensive Plan, which recommends Rural Low Density Residential at one dwelling unit per 10 acres. Therefore, the proposal does not comply with the Comprehensive Plan's recommended land use density however, it is in compliance with several of the goals and objectives of the Plan. The Elk Meadows area is served by its own community water system for household water and fire protection, which includes a 13,000-gallon water storage tank and a new 214,000-gallon water storage tank located on Lot 51B. Wapiti Road and Wambli Lane provide access to the subdivision and are both private gravel roads within a 60-foot private access easement across a County owned parcel.

The applicant is requesting two variances to this subdivision. The first is a request to vary from the road standards requiring a 24-foot surface width for Wambli Lane and Wapiti Lane to permit the existing 17 to 22 foot surface width. Missoula County Public Works is in support of this variance request noting that that these are existing private roads maintained by the Elk Meadows Homeowners Association. The second variance request is a request to vary from non-motorized standards requiring internal pedestrian connections to school bus stops and

adjoining neighborhoods. Again, Missoula County Public Works supports this variance stating that this is a two-lot rural subdivision with large lots and requiring pedestrian connections in this area would be unreasonable.

To summarize the staff's recommended conditions of approval, Condition of approval #1 requires driveways in excess of 150 feet to be reviewed and approved by the fire district. Condition of approval #2 requires that a fire service fee of \$530.00 per new lot. Condition of approval #3 states that plans for wildland fire suppression are to be reviewed and approved by the fire district. As per our discussion at Planning Status, I would suggest a motion to replace the word "suppression" with the word "mitigation" for Condition of approval #3. Condition of approval #4 requires the posting of visible address signage. Five is a requirement to amend the plat to show all existing easements located adjacent to the subdivision boundaries. The last condition requires three amendments to the development covenants per agency comment and staff recommendation.

In conclusion, I would just like to note that the Variance request #1 on the Request for Commission Action, there's an error. It should state the existing surface width of 17 to 22 feet rather than just 22 feet. It is correct in the staff report. Thank you.

Chairman Evans: Is the developer or their representative here?

Deborah Evison: Good afternoon, thank you, for the record my name is Deborah Evison, spelled E-V-I-S-O-N, with Montana Northwest Company. I want to thank OPG and Zack especially for a thorough job in reviewing this packet. We think it's a good subdivision; it's just a two-lot minor. Just wanted to point out on Condition #3 that the change from suppression to mitigation from Frenchtown Rural Fire, we support that change. I'd be happy to entertain any questions. Thank you.

Chairman Evans: Questions, Jean? Thank you, Deborah. This is a consideration, but we always allow public comment. Is there anyone who'd want to comment on this subdivision? There being none, we will close the consideration and accept motions.

Commissioner Curtiss made a motion that the Board of County Commissioners amend Condition #3 to strike the word "suppression" and insert mitigation, so it would read, "Fuel mitigation work meeting Montana State Department of Natural Resources Fire Protection Guidelines for Wildland Residential Interface Development is required prior to combustible construction. Plans for wildland fire mitigation shall be reviewed and approved by Frenchtown Rural Fire District prior to building permit approval." Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Curtiss made a motion that the Board of County Commissioners approve the variance request from Section 3-2(1)(l) of the Missoula County Subdivision Regulations which requires a 24-foot surface width for private roads to permit a 17 to 22-foot surface width for Wapiti Road and Wambli Lane based on the findings of fact set forth in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

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

Commissioner Curtiss made a motion that the Board of County Commissioners approve Elk Meadows, Lot 51A and 51B Subdivision based on the findings of fact as amended in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Elk Meadows Lots 51A and 51B Conditions of Approval

Roads and Access

1. Driveways in excess of 150 feet in length must be approved by Frenchtown Rural Fire District prior to building permit approval. A turn around for fire apparatus must be incorporated at the terminus of the driveway. The driveway must provide 20 feet of unobstructed horizontal clearance and 13 feet 6 inches unobstructed vertical clearance the length of the drive. This language shall also be included in a development covenant and shall not be deleted or amended without governing body approval. *Subdivision Regulations Article 3-2(10) and Frenchtown Rural Fire District recommendation.*

Fire

2. The developer shall contribute a fire service fee of \$530.00 per new lot to the Frenchtown Rural Fire District for fire protection purposes. Payment of this contribution shall be verified prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Frenchtown Rural Fire District recommendation.*
3. Fuel mitigation work meeting Montana State Department of Natural Resources Fire Protection Guidelines for Wildland Residential Interface Development is required prior to combustible construction. Plans for wildland fire suppression shall be reviewed and approved by Frenchtown Rural Fire District prior to building permit approval. *Subdivision Regulations Article 5-1(5)(J) and Frenchtown Rural Fire District recommendation.*
4. All residences within this subdivision shall post address signs visible from Wambli Lane in all light conditions. Plans for visible addressing shall be reviewed and approved by the Frenchtown Rural Fire District and included in the Development Covenants prior to final plat approval. *Subdivision Regulations Article 3-2(2)(G), Missoula County Public Works, and Frenchtown Rural Fire District recommendation.*

Easements

5. The subdivider shall amend the plat to include all existing easements located adjacent to the subdivision boundaries prior to final plat approval. *Subdivision Regulations Article 5-2(3)(m) and County Surveyor's Office recommendation.*

Development Covenants

6. The Development Covenants shall be amended as follows, subject to review and approval by OPG, prior to final plat approval:
 - A. Replace the Noxious Weed Control section of the Development Covenants with the following language:

Noxious Weed Control: Lot owners shall maintain their lot in compliance with the Montana County Weed Control Act and the Missoula County Noxious Weed Management Plan. Lot owners shall revegetate any ground disturbance with beneficial species at the first appropriate opportunity after the disturbance occurs. This section of the covenants may not be changes or deleted without governing body approval. *Subdivision Regulations Article 3-1(1)(B).*
 - B. Add the following Amendments section to the Development Covenants:

Amendments: "No section of the covenants relating to driveways, road maintenance, fuel mitigation, address signage, noxious weed control, health-radon, wildlife, wildland/residential interface, or amendments may be deleted or amended without governing body approval. *OPG recommendation.*"
 - C. Amend Section 14 of the Development Covenants to add the following:
 - j. Homeowners shall follow the recommendations for "Bear Smart Communities" included in the brochure from Montana Fish, Wildlife, and Parks and attached to these Development Covenants. *U.S. Fish and Wildlife Service recommendation.*

Consideration: Terrace View Subdivision (4 lots on 6.14 acres) - South side of Terrace Drive near Miller Creek Road

Chairman Evans opened the consideration.

Mirtha Becerra, Office of Planning and Grants, presented the staff report.

I'm passing around a reduced copy of the plat so you don't have to turn around. Here's the copy of the photo rendition that's included in the packet, but just so that you don't have to be flipping through the packet. Vaughn and Susan Anderson and Marvin Wilson, represented by DJ&A are requesting approval of Terrace View Addition Subdivision. This is a proposed subdivision for Lots 1 and 2 of the Terrace Drive Addition approved in December of 2001. The property is zoned C-RR1, that's one per acre and the land use designation is residential one dwelling unit per five acres. The property's approximately 6.14 acres in size and the lot sizes will range between 1.27 and 2.06 acres. The property's accessed via Miller Creek Road to Terrace Drive and it's approximately 2.25 miles from 39th Street.

Access to Lots 3 and 4 is via Terrace View Drive, a proposed private road and that's shown in pink on the plat. Access to Lots 1 and 2 will be via a shared driveway extending from the end of the Terrace View Drive cul-de-sac and that's shown in yellow on the plat.

There are six variance requests for this proposal. The first one is a variance from the standard requiring concrete boulevard sidewalks or paved boulevard pedestrian walkways on one side of Terrace Drive. There are no pedestrian walkways in the vicinity. An RSID waiver statement is included on the plat, waiving the right to protest any future improvements to Terrace Drive including pedestrian facilities. Missoula County Public Works supports the request and staff recommends approval of that variance request.

The second one is a variance from the standard requiring a road surface width of 24 feet to allow Terrace View Drive to be installed with an 18-foot wide surface with two-foot wide shoulders on each side. Terrace View Drive is a private drive serving only two lots and providing access via a shared driveway to the other two lots. Public Works supports the variance request and staff recommends approval of that variance request.

Number 3 is a variance from the standard requiring a minimum driveway width of 12 feet. The proposal calls for a 10-foot wide driveway with one-foot wide shoulders on each side. Installation of the driveway with a 12-foot surface width to meet the standards would not be a significant hardship to the developer. Missoula Rural Fire District does not support this request for safety issues and staff recommends denial of that variance request.

Number 4 is a variance from the standard requiring concrete boulevard sidewalks on Terrace View Drive. Terrace View Drive is a private road that will serve only this subdivision. There are no pedestrian sidewalks anywhere in the vicinity, therefore staff recommends approval of that variance request.

Number 5 is a variance from the standard requiring a maximum grade of 8% to allow a 9% grade for Terrace View Drive and for the driveway serving Lots 1 and 2. The property has slopes greater than 10% and requiring the access drive and the driveway to meet that standard would mean more cut-and-fill. As proposed, the drive and the driveway follow the natural contour of the land and therefore, reduces the amount of cut-and-fill. Missoula County Public Works supports the variance request and staff recommends approval of that variance request.

Finally, #6 is a variance from the standard requiring lots to be designed so that no lot shall be divided by an easement. The proposed drive and the driveways easements are designed to follow the contours of the land and therefore that creates lots that are divided by these easements. Requiring the access easements to be located on either one of the sides of the property would result in significantly more cut-and-fill. Staff recommends approval of that variance request.

There are 12 conditions of approval for this subdivision and I'll try to summarize them for you. The first one requires the applicant to contribute \$1800 to the Miller Creek Transportation Mitigation Fund. The second one is an RSID/SID waiver statement to include Miller Creek on the plat. The third one is to require a portion of the driveway serving Lots 1 and 2 to be improved to 12 feet of paved surface. Number 4 requires that access easements as proposed on the supplemental data sheet to be shown on the final plat. Number 5 requires all residences within this subdivision to have visible signs from all streets and for those plans to be approved by the Missoula Rural Fire District. Number 6 requires driveway plans, including turnarounds for fire apparatus, to be reviewed and approved by the Missoula Rural Fire District prior to building permit approval. Number 7 requires fire hydrants to be installed prior to any combustible construction and subject to review and approval of Missoula Rural Fire District prior to building permit approval. Number 8 requires that a note on the plat be added stating that Missoula Rural Fire District is not obligated for the installation or maintenance of the fire hydrants. The next one is regarding sewer and that is to add the standard language RSID language that we have for all the subdivisions. Number 9 requires the applicant to petition into the Missoula Urban Transportation District. Number 10 is regarding a revegetation plan to be approved by the Missoula County Weed Board. Number 12--I think I missed one of them or I might have them in my presentation a little bit off. Sewer is #8, pedestrian facilities is #9, weeds is 11, and covenants is the last Condition of approval #12, which requires the development covenants to be amended to incorporate language regarding energy efficiency, wood stoves, wildland-residential interface standards, height limitations per the applicable zoning district and amendments in living with wildlife section.

In conclusion, staff recommends approval of the subdivision subject to the recommended conditions of approval and the findings of fact contained in the staff report. Thank you.

Commissioner Curtiss: One question please. Number 3, your Condition #3, should that say Lots 1 and 2? It only says two in what I have.

Mirtha Becerra: No, the way it's written is right. If you look at the plat, the driveway serving Lot 1 is actually 16 feet wide. It's from that point on that it becomes narrower, so we need it to be just for Lot 2 to be 12 feet.

Chairman Evans: Other questions? Is the developer or their representative here?

Christopher Anderson: For the record, my name is Christopher Anderson with DJ&A Engineering here in Missoula. I'd like to thank Mirtha for all the hard work she's done in reviewing this subdivision. We agree with all the staff's recommendations and would like to entertain any questions that you have at this time.

Chairman Evans: Questions, Jean? Okay, thank you. This is a consideration, but we always accept public comment. Does anyone wish to comment? Yes, sir.

Tom Russell: I'm Tom Russell. I live again at 2846 Lorraine, which essentially is the second lot under the word preliminary there up on your plat. It's to the west of the--or the south lot. Anyway, my question concerns Variance #5, which deals with the 9% grade issue. When the staff read the proposal, she said that the Public Works Department supported it. She was silent with regard to the fire department and I'm questioning whether or not the fire department has even taken a look at this steep grade as to whether or not they're accepting it.

Mirtha Becerra: They have, they actually-I talked to the fire department a couple of times. The first time regarding that percent grade and also regarding the width of the driveway. They seem to be fine with it and in October we passed new subdivision regulations for the County and under those regulations, the maximum grade is 10%, so this would fall under what they think is adequate for fire support.

Chairman Evans: Thank you, Mirtha. Questions or comments, Jean, or motions?

Commissioner Curtiss: I guess one comment that I wanted to make because we've got three subdivisions today, all of which have had different things on pedestrian. So the one that we did in the Clinton Area were one-acre lots and quite a few of them--just so it doesn't look like we do everything different, this one is a steeper hill, but there's only four lots. There's no further future connections, so I'm comfortable with not requiring that on this one.

Commissioner Curtiss made a motion that the Board of County Commissioners approve the variance request from Section 3-2(8)(A)(ii) requiring concrete boulevard sidewalks or paved boulevard pedestrian walkways on one side of Terrace Drive based on the findings of fact. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Curtiss made a motion that the Board of County Commissioners approve the variance request from Section 3-2(3) requiring a road surface width of 24 feet to allow Terrace View Drive to be installed with an 18-foot wide surface based on the findings of fact. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Curtiss made a motion that the Board of County Commissioners **deny** the variance request from Section 3-2(10)(A) requiring a minimum driveway width of 12 feet based on the findings of fact. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Curtiss made a motion that the Board of County Commissioners approve the variance request from Section 3-2(1)(A)(ii) of the Missoula County Subdivision Regulations requiring concrete boulevard sidewalks or paved boulevard pedestrian walkways on one side of Terrace View Drive based on the findings of fact. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Curtiss made a motion that the Board of County Commissioners approve the variance request from Sections 3-2(1)(I) and 3-2(10)(B) of the Missoula County Subdivision Regulations requiring a maximum grade of 8% to allow a 9% grade for Terrace View Drive and the driveway to Lots 1 and 2 based on the findings of fact. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Curtiss made a motion that the Board of County Commissioners approve the variance request from Section 3-3(1)(D)(ii) requiring lots to be designed so that no lot shall be divided by an easement based on the findings of fact. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Curtiss made a motion that the Board of County Commissioners approve the Terrace View Addition subdivision based upon the findings of fact and subject to the recommended conditions of approval in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Terrace View Addition Subdivision Conditions of Approval

Roads and Driveways

1. The applicant shall contribute \$1,800 per new lot to the Miller Creek Transportation Mitigation Fund to mitigate the impacts to the Miller Creek/Lower Miller Creek Road intersections. Payment of this contribution shall be verified prior to final plat approval. *Subdivision Regulations Article 4-1(12).*
2. The RSID/SID waiver statement on the plat for improvements to Terrace Drive shall be amended to include Miller Creek Road prior to final plat approval. *Subdivision Regulations Article 3-2(2)(A).*
3. The portion of the driveway serving Lot 2 shall be improved to a 12-foot paved surface width. *Subdivision Regulations Article 3-2(10)(A) and Missoula Rural Fire District Recommendation.*
4. Access easements as proposed on the supplemental data sheet for Terrace View Drive and the shared driveway to Lots 1 and 2 shall be shown on the final plat subject to review and approval of OPG prior to final plat approval. *Subdivision Regulations Article 3-6.*

Fire

5. All residences within this subdivision shall post address signs visible from the street in all light conditions. Plans for visible addressing shall be reviewed and approved by the Missoula Rural Fire District and the plans shall be included in the Development Covenants prior to final plat approval. *Subdivision Regulations Article 3-2(2)(G), Missoula Rural Fire District and OPG recommendation.*
6. Driveway plans, including turnarounds for fire apparatus, shall be reviewed and approved by the Missoula Rural Fire District prior to building permit approval. *Subdivision Regulations Article 3-2(1)(I), Missoula Rural Fire District, and OPG recommendation.*
7. Fire hydrants shall be installed prior to combustible construction subject to review and approval of Missoula Rural Fire District prior to building permit approval. *Missoula Rural Fire District recommendation.*
8. The following note shall be added to the face of the plat: "The owners of Terrace View Addition Subdivision understand and agree that the Missoula Rural Fire District is in no way obligated to pay for installation costs or maintenance of fire hydrants for this subdivision." *Missoula Rural Fire District recommendation.*

Sewer

9. The note provided on the face of the plat shall be replaced with the following prior to final plat approval:

"Acceptance of a deed for a lot in this subdivision shall constitute: 1. Assent by the owners of the lots to waive the right to protest an RSID/SID affecting said property for the purpose of financing the design and construction of a public sewer benefiting said property; and 2. An agreement whereby the owner(s) shall connect to public sewer within 180 days after public sewer is installed and available in the public right of way adjacent to the property. This waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land depicted herein. All documents of conveyance shall refer to and incorporate this waiver." *Subdivision Regulations 3-1(I)(E)(6) and 3-7(3).*

Pedestrian Facilities

10. The applicant shall present evidence of petitioning into the Missoula Urban Transportation District prior to final plat approval. *Subdivision Regulations Article 3-2(6).*

Weeds

11. A Revegetation Plan for disturbed sites shall be submitted to and approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Missoula County Weed District recommendation.*

Covenants

12. The Development covenants shall be amended to incorporate the following subject to review and approval by OPG prior to final plat approval:

- a. Energy Efficiency: Builders consider using energy efficient building techniques such as building orientation to the sun, appropriately sized eaves, wind breaks, extra insulation, passive solar lighting, solar heating, and ground source heat pumps for heating/cooling. Ground source heat pumps are usually more efficient, and so create less pollution, than other systems for heating and cooling. Increased energy efficiency reduces air pollution, reduces the need for people to use cheaper heating methods that pollute more, and helps protect the consumer from energy price increases.
- b. Wood stoves: 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. *Subdivision Regulations 3-1(2) and City-County Health Department recommendation.*
- c. Wildland-Residential Interface Standards per Missoula County Subdivision Article 5-3(5)(R)&(S) and Appendix VIII. *Subdivision Regulations Article 5-3(5)(R)&(S) and OPG recommendation.*
- d. Section 6 of the Development Covenants shall be amended as follows:

Driveways and Parking Area. Each single-family residence shall have ~~either a concrete, asphalt, or dust treated gravel~~ paved driveway and parking area. The homeowner shall have 12 months after the completion of the residence to install these improvements. Each lot owner will provide and maintain a turn around area of stabilized sub-grade with appropriate surfacing to support emergency vehicle access suitable for the Missoula Rural Fire District.

- e. Section 13 of the Development Covenants shall be amended as follows:

Landscaping and Weed Control: Lawn, landscaping and re-vegetation with beneficial plant species appropriate for the surrounding environment shall be installed and maintained within a reasonable period of time after construction of the single family dwelling, driveways or other construction. Each lot owner agrees to control and eliminate all noxious weeds, most particularly Knapweed and Leafy Spurge, growing on any of said lots in accordance with the Montana County Noxious Weed Control Act and the Missoula County Noxious Weed Management Plan. Weeds shall be sprayed as necessary to encourage natural grasses and vegetation. ~~If not sprayed or controlled by the homeowner, the county shall be allowed to control weeds at homeowners' expense.~~ The property must be watered sufficiently to keep grass reasonable green or adequately mowed to prevent any grass fires.

- f. Section 3 of the Development Covenants shall amend the last sentence to read:

The building heights for lots 3 and 4 will be limited to 25 feet ~~measured from the driveway~~ while the building height for lots 1 and 2 will be limited to ~~35~~ 30 feet ~~measured from the driveway~~ per the applicable zoning method of measurement.

- g. Amendments: The Development Covenants shall include an amendments section, which includes private road and driveway design and maintenance, address signage, radon, wood stoves, revegetation, weed control, Living with Wildlife and Wildland-Residential Interface as sections that may not be changed or deleted without governing body approval.

h. Add the following section to the development covenants:

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 the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners “live with wildlife.” Alternatively, see FWP’s web site 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. There is high potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens**, fruit trees or orchards can attract wildlife such as bear and deer. Fruit bearing trees and shrubs are discouraged in this subdivision because they can regularly attract bears in the fall. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or vegetable material can attract bears, skunks, and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- c. **Garbage** should be stored indoors or in bear-resistant containers to avoid attracting wildlife such as bears. If stored indoors, do not set garbage cans out until the morning of garbage pickup, and bring cans back indoors by the end of the day. (Contact FWP for information on obtaining or building bear-resistant trash containers or structures.)
- 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, and outdoor birdfeeders are strongly discouraged annually from April 1st through the end of November. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 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 feeding 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. Under current state law, it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- 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 smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 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 (beehives)** could attract bears in this area. If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.

Other Business

There being no further business to come before the Board, the Commissioners were in recess at 2:19 p.m.