

**PUBLIC MEETING – JUNE 11, 2008**

The Public Meeting was called to order at 1:30 p.m. by Chair Jean Curtiss. Also present were Commissioner Larry Anderson, Commissioner Bill Carey, Chief Civil Deputy County Attorney Mike Sehestedt, Director of Public Works Greg Robertson, County Auditor Barbara Berens, Assistant Public Works Director Charles Wright, Survey Technician Steve Smith, and Office of Planning and Grants Planner Janet Rhoades.

**Pledge of Allegiance**

**Public Comment**

**Routine Administrative Actions**

Commissioner Larry Anderson moved that the Board of County Commissioners approve the weekly claims list in the amount of \$484,562.93. Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

**Bid Award (County Commissioners) - Postponed from June 4, 2008: Legal Ad Printing Contract**

Chair Jean Curtiss opened the bid award hearing.

|    | Missoulian   |                 |       |          | Independent  |          |      |  |
|----|--|-----------------|-------|----------|--|----------|------|--|
| #1 | Provided required information on newspaper characteristics     |                 |       |          | Provided required information on newspaper characteristics |          |      |  |
|    | Unable to locate filing with Clerk and Recorder as required in |                 |       |          | Filed required info with Clerk and Recorder; see book 800, |          |      |  |
|    | MCA 7-1-2121(2)(a)(iv).  |                 |       |          | Pg 513, 6/27/07  |          |      |  |
| #2 | Contract Pricing:  |                 |       |          | Contract Pricing:  |          |      |  |
|    | Legal Text Advertising   | 1st 100 words   | 9.00  | Per Word | 0.09   | Per Word | 0.05 |  |
|    |  | Each add'l word | 7.00  |          |  |          |      |  |
|    | Legal Display Advertising                                      | Weekdays        | 11.52 | per inch | 4.00   | per inch |      |  |
|    |  | Sundays         | 15.04 | per inch |  |          |      |  |
|    | Same pricing will apply to yr 2.                               |                 |       |          | Effective for 52 wks; does not address rates for 2nd yr.   |          |      |  |
|    | Note: On-line posting of legal ads free of charge.             |                 |       |          | Note: Text only legal ads posted on-line free of charge.   |          |      |  |
| #3 | Contract negotiation and bid bond:                             |                 |       |          | Contract negotiation and bid bond:                         |          |      |  |
|    | Understands requirements and will comply if contract awarded   |                 |       |          | Provided Cashier's Check for bid bond                      |          |      |  |
|    | No bid bond provided   |                 |       |          |  |          |      |  |

Barbara Berens presented the staff report.

We issued a solicitation for bid for legal printing and they were published in the Missoulian on Sunday, May 4 and Sunday, May 11 in accordance with applicable statute. The bid responses were due on Monday, May 19. We received two, one from the Missoulian and one from the Missoula Independent. Based on the responses, I recommend that we award the bid to the Missoula Independent.

Chair Jean Curtiss: This is a bid award. Is there anyone here that would like to speak in favor or against? Just as a background, maybe we should give a little background as to why we're doing this. There's a legislative change that allows us to contract with a--doesn't have to be a paid circulation anymore.

Mike Sehestedt: The fundamental change is it doesn't have to be paid circulation. There is however, a filing report to be eligible for legal advertising, the paper has to file with Clerk & Recorder, a statement of circulation and some other items. I would note for the record that even though that statute wasn't effective until October 1 of last year, the Independent, knowing that it had been adopted, filed that certification, the Missoulian did not. To my knowledge, has not yet filed that statement.

Chair Jean Curtiss: I think it's important too to put on the record the fiscal impact that the rates that came forth in the two bids. The Missoula Independent would charge for legal printing are about 50% less than those proposed

by the Missoulian, which Missoula County has used for many years. Based upon our prior year's expenditures for printing, we would anticipate a decrease of about \$25,000 for Fiscal Year 09 budget.

Mike Sehestedt: One other thing I should just note for the record and that is that the request for proposals required a bond. The Independent's response included a bond and the Missoulian's did not therefore [inaudible] on that basis as well.

Commissioner Larry Anderson: Since this is a weekly newspaper rather than a daily, do we have to modify our announcement procedures in any way to give proper and adequate public notice?

Mike Sehestedt: Actually, because it comes out on Thursday, I think the deadlines for getting ads in will change. The publication once a week for two consecutive weeks, we're still within the permissible time period for our Wednesday meetings, which is where we have most of our hearings. I believe it will work for the other meetings as well quite comfortably, Planning Board in particular.

Barbara Berens: The deadline for submitting legal ads is Tuesday for publication on Thursday, whereas the Missoulian's deadline was Wednesday for publication on Sunday. It will only involve just a 24-hour moving forward of the deadline. I would note also that this is a one-year contract that we will be awarding.

Mike Sehestedt: I think given the fact we're making the change [inaudible] important that we just do it for a year this first time.

Chair Jean Curtiss: Any public comment on awarding this bid? Is there a motion?

Commissioner Bill Carey made a motion that the Board of County Commissioners award the one-year contract for legal printing to the Missoula Independent as recommended by staff. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

### **Bid Award (Public Works): Bonner/Turah Trail**

Chair Jean Curtiss opened the bid award hearing.

Greg Robertson presented the staff report.

My office submitted a solicitation of advertisement for competitive bids to construct the bike ped trail between Bonner and Turah. This is part of the Milltown Redevelopment Funds that have been made available. In response to our solicitation, we received three bids. Western Excavation was the apparent low bid. We evaluated their bid and found everything to be in order. The bid summary and recommendation from the engineer are attached. Based on our evaluation, we recommend that you award the work to Western Excavation in the amount of \$929,558.75, subject to written concurrence with the Montana Department of Transportation, which is a requirement that we do with any federal project.

Commissioner Larry Anderson: Greg, one question, this has an alternative in it that's been included in that price. Could you explain what [inaudible]?

Greg Robertson: There were actually three alternates that were considered and they were building segments of the trail. The first alternate was to build the trail, get it underneath both interchanges to Rustic Road. The second alternate was to extend the trail along Rustic Road. The third alternate was to complete the entire loop. We may at some point in time in the future exercise those depending how budget shakes out with the bridge project. Currently, we have adequate funding for bid alternate one.

Greg Robertson: That will extend along the entire length between Bonner and the Turah exit and get the project or the trail underneath both the Rustic Road underpass and then the Turah Interchange.

Commissioner Larry Anderson: So that will go up [inaudible] Highway 10...

Greg Robertson: Yes.

Commissioner Larry Anderson: ...and then cross under and then go up Rustic Road to the Turah...

Greg Robertson: Eventually it will. It will not as part of the...

Commissioner Larry Anderson: Oh, okay...

Greg Robertson: It runs along the entire northern boundary of Interstate 90 on secondary route 210.

Commissioner Larry Anderson made a motion that the Board of County Commissioners award the contract to Western Excavation in the amount of \$929,558.75 for Phase 2 of the Bonner-Turah Trail as recommended in the staff report and subject to concurrent from the Montana Department of Transportation. Commissioner Bill Carey seconded the motion.

Chair Jean Curtiss: Is there any public comment on this? Seeing none...

The motion carried on a vote of 3-0.

**Decision (From May 14, 2008 Hearing): Petition to Abandon a Turnaround Easement in Williams Addition (Snapdragon Drive & Ladyslipper Lane)**

Chair Jean Curtiss opened the hearing.

Next on our agenda is a decision from our May 14 hearing. We received a petition at that time to abandon a turnaround easement in the Williams Addition in the Snapdragon Drive, Ladyslipper Lane area. We delayed so the hearing is still open and today's our decision point. We're waiting to have Steve and Charlie available to go out and show--Mr. Anderson did you go?

Commissioner Larry Anderson: I did.

Chair Jean Curtiss: [Inaudible] so we'll take the report from you or Steve.

Steve Smith presented the staff report.

On Friday of last week, Commissioner Anderson and I made a site visit for the abandonment. There were two cul-de-sacs that were petitioned for. After reviewing, we came to the conclusion there would be no problems with the proposed abandonment.

Chair Jean Curtiss: I see that you brought some very lovely maps, so would you like to show us...?

Steve Smith: Actually, this is another request.

Chair Jean Curtiss: We have the map here with our report then. The reason we're abandoning the cul-de-sac is because now the road connections have been made so they don't need a cul-de-sac.

Steve Smith: They soon will be. One is still in the very rough stages, not quite constructed and the other one's under construction, what we observed.

Chair Jean Curtiss: We have a viewer's report that says the same. Did you have anything you'd like to add, Commissioner Anderson?

Commissioner Larry Anderson: No, I think it's appropriate and it's good planning to have those cul-de-sacs that can eventually be extended to provide interconnectability to the adjacent subdivisions. I think that's good planning.

Chair Jean Curtiss: Is there any public comment on this decision to abandon a couple cul-de-sacs? Seeing none, I'll close the hearing.

Commissioner Bill Carey made a motion that the Board of County Commissioners approve the petition to abandon the turnaround easement bounded on the northwest by the Snapdragon Drive right-of-way as shown on the Plat of Williams Addition; by a public access easement on the northeast; and on all other sides by a portion of the remainder of Tract A of Certificate of Survey #2204 and the turnaround easement bounded on the northeast by the Ladyslipper Lane right-of-way as shown on the Plat of Williams Addition and on all other sides by a portion of the remainder of Tract A-2 of Certificate of Survey #2593. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

### **Hearing (Certificate of Survey): Amendment to Larson Family Transfer**

Chair Jean Curtiss opened the hearing.

In January of 2007, the Commissioners approved a family transfer of six parcels for the Larson family. Is anyone here from the Larson family? Okay, just wanted to make sure they were here first. This consideration is to amend the family transfer that we approved to drop from that approval, Victoria Godkin and Royce Conlin as recipients of the parcels and add Beverly Larson as a recipient instead. We have the background here, but may we could just have Colleen give the background. Are you here to speak for the family?

Colleen Dowdahl: I am. Hello, everyone, my name is Colleen Dowdahl. I'm an attorney with Worden, Thane and I'm representing the Larson's in their request to amend your approval of their family transfer. Previously, they had asked to--for permission to sell to their children parcels resulting in a division of land of six parcels. Two of those children are not in a position to receive those parcels at this time, so they are amending their request to transfer the family home to Mrs. Larson and to create parcels for additional children that are listed, I'm sure, on the application that you all have. It would go from six to five parcels and the changing to Mrs. Larson as opposed to the two children.

Chair Jean Curtiss: Colleen, our application today doesn't have the map attached, so could you remind us where this property is?

Colleen Dowdall: It is in the Blackfoot. Its 3.8 miles up Highway 200.

Chair Jean Curtiss: Is it the area--what is that subdivision area there? Where there's some houses on a...?

Colleen Dowdall: It is not within a subdivision.

Chair Jean Curtiss: Right. It's right close, before you turnaround and get...

Unidentified Speaker: Right next to River Bend.

Chair Jean Curtiss: River Bend, that's what I was trying to remember. Was there a remainder on the original too?

Colleen Dowdall: Yeah.

Chair Jean Curtiss: And the remainder now would stay with Mr. Larson?

Colleen Dowdall: Yeah.

Chair Jean Curtiss: And the existing family home would be for Mrs. Larson?

Colleen Dowdahl: Yes.

Chair Jean Curtiss: Are there questions for Colleen at this time? Would it be helpful to see a map? Looks like you have a map?

Colleen Dowdahl: I'm not even--this is the first time I've looked at the map. It consists of 30 acres and the parcels are two- or three-acre parcels, one one-acre parcel, and then the remainder is the largest parcel.

Chair Jean Curtiss: Thank you, Colleen. So could Mr. and Mrs. Larson come to the microphone please? So it looks like when you came in last year that the property was in both you and your husband's name?

Unidentified Speaker: [Inaudible]

Chair Jean Curtiss: Now it's in a trust?

Beverly Larson: No, it was in a trust.

Chair Jean Curtiss: Oh, it was in a trust from the family transfer, so now it's in David's name?

Cathie Cichosz: Could you speak your answers please?

Beverly Larson: Yeah.

Chair Jean Curtiss: Mike, do you recommend that we ask some of the same questions that we normally ask?

Mike Sehestedt: We have the answers as to the children. What are you and your husband's plans with regard to the parcel you're receiving and the remainder parcel? Do you intend to continue to hold them or do you intend to sell them?

Beverly Larson: No, we're going to keep them, at this point in time.

Chair Jean Curtiss: So there's not a home on the remainder piece, right?

Beverly Larson: No, I have--it's in my name, the home is, or proposed to be.

Colleen Dowdahl: The home is proposed to be in Mrs. Larson's name and the remainder parcel would currently be in her husband's name after the family transfer occurs. The thing that the Larsons are attempting to do is to take care of a substantial amount of debt occurred in their business and Mr. Larson has some health problems. The children are purchasing the parcels from them; they're not gifts, but they're purchases, all in an attempt to retire this large amount of debt. This was the best way for them to do it to keep the property in the family and attempt to keep it all together.

Chair Jean Curtiss: So the children don't propose, however, to sell within the next year, the parcels they will be purchasing? Could you say that again?

Beverly Larson: They don't even live here.

Chair Jean Curtiss: They don't live there. They would be in their name; they're helping you guys to keep the property in the family.

Colleen Dowdahl: One of the daughters is now going through a divorce, that's why she did not want to take ownership of a parcel. She didn't want to get it caught up in the divorce proceedings.

Chair Jean Curtiss: Okay. Are there further questions for Mrs. Larson? This is a hearing, so I'll open the hearing for any other public comment. Is there anyone who'd like to comment? Seeing none, I'll close the hearing.

Commissioner Larry Anderson made a motion that the Board of County Commissioners approve the request by David and Beverly Larson to amend the Larson Family Transfer by dropping Victoria Godkin and Royce Conlin as recipients and approve Beverly Larson as a recipient of one of the parcels based on the fact that there does not appear to be an attempt to evade subdivision review. The parcels to be conveyed would be Terri Miller, Roy Wills, Randy Larson, Todd Larson, and Beverly Larson, for a total of five parcels. Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

Chair Jean Curtiss: You will receive a new letter from us saying that this new amendment has been approved within the next couple weeks. Thank you for coming in.

**Hearing (Certificates of Survey): Evans (Richard & Sharon) Family Transfer**

Chair Jean Curtiss opened the hearing.

We have a hearing for the Evans Family Transfer. Is someone here from the Evans family? Did we find their document?

Mike Sehestedt: We didn't, but I think I have a way to proceed if you could invite them to the microphone.

Chair Jean Curtiss: Okay, so the staff person who normally hands us these is on vacation and we don't know which desk she put them on. Do you have a copy with you? Mr. Sehestedt can ask you some questions. If you'd go to the microphone, we can handle this anyway. If you could state your names for the record.

Sharon Evans: Sharon Evans.

Richard Evans: Richard Evans.

Chair Jean Curtiss: Mr. and Mrs. Evans, we have some questions we'll have Mr. Sehestedt ask you on the record.

Mike Sehestedt presented the staff report.

Let me just first state for the record, we're never going to unchain Karol from her desk again.

Chair Jean Curtiss: Right, she doesn't get vacation.

Mike Sehestedt: Could you tell us where the property in question is located?

Richard Evans: Up from the Smoke Jumping Center on Butler Creek, four miles up Butler Creek.

Mike Sehestedt: About how many acres do you have?

Richard Evans: Twenty-five, 27.

Mike Sehestedt: About how long have you owned the property?

Richard Evans: About...

Sharon Evans: Since 1972.

Richard Evans: Since 1972.

Mike Sehestedt: How are you proposing to divide it?

Richard Evans: In three parcels.

Mike Sehestedt: Will you retain one of the parcels?

Richard Evans: No.

Mike Sehestedt: Who are the recipients?

Richard Evans: Our three kids.

Mike Sehestedt: Do you know what their plans are with regard to the property?

Richard Evans: I believe two of them are going to build up there and the third one, I have no idea yet.

Sharon Evans: [Inaudible]. I said they will probably build too, but probably not as soon as the other [inaudible].

Mike Sehestedt: Are these children all over 18 years of age?

Richard Evans: Yes.

Mike Sehestedt: You haven't previously given any of these children property using the family transfer exemption?

Richard Evans: No.

Mike Sehestedt: Is this area zoned, do you know?

Sharon Evans: They said not.

Mike Sehestedt: That would have been my belief as well. Should the Commissioners approve the division as proposed in your application, do you understand that they're not--the Commissioners are not reviewing your request for adequate access in all weather, including emergency services to any or all of the parcels? I notice from your...

Cathie Cichosz: Could you answer--speak an answer?

Chair Jean Curtiss: Do you understand that we're not reviewing it to see if you have access and all of those?

Richard Evans: Yes.

Mike Sehestedt: I noticed from the layout, apparently one side of this fronts on a public road. How will the other two parcels attain access? Will you reserve an easement?

Richard Evans: We'll have to build a road in there.

Chair Jean Curtiss: So when you had a surveyor do the work, you would need to have an easement shown on that plat.

Sharon Evans: Either that or we do have a legal easement from the neighbor that we sold that years and years ago. We have each other easements, but now the new people up there, we haven't talked to them. If they will be terribly upset, we won't use their easement, but it's not--we would like to use that. It is a legal [inaudible] paper.

Mike Sehestedt: How you provide access is really pretty much a matter for you as long as you understand that the Commissioners aren't looking at it or saying it's going to be good access. Do you further understand that if the Commissioners approve the use of this exemption to divide the property, they're just saying it's okay to make it into three pieces and they're not guaranteeing to be able to get septic permits, that floodplain issues won't preclude us, slope won't preclude use, or that you'll be able to get utilities, power, phone, anything else to the properties?

Richard Evans: We ...

Mike Sehestedt: Those are all your issues. I have no further questions and the application just arrived.

Chair Jean Curtiss: So we should give Mrs. Evans back the map. This is a public hearing, is there anything else that you folks would like to add? Are there any questions for the Evans?

Commissioner Larry Anderson: The photograph shows a house on one of those tracts, do you folks plan to continue to live there?

Richard Evans: No, we don't live there. We haven't lived there for 20 years.

Commissioner Larry Anderson: Okay, so one of your--some of your daughters would live in that house or somebody else does?

Sharon Evans: They may probably just take it down because it's just sat empty for 20 years and there's not too much left there.

Mike Sehestedt: Only the roof looks good.

Mike Sehestedt: And that's from a couple of thousand feet.

Chair Jean Curtiss: We do now have the paperwork, so it looks like you plan to transfer 10.8 acres to your daughter and son-in-law, Sasha and Travis Greenwalt; 7.9 acres to Richard Neil Evans, and 6.6 to your daughter, Robin and her husband Keith Gyles.

Richard Evans: That's right.

Chair Jean Curtiss: Are there any further questions? Thank you. This is a public hearing; does anyone else want to make comments on this proposed family transfer? We do have the history that we can now enter.

Mike Sehestedt: I think that the application provides it and at this point, it would just be a waste of time.

Chair Jean Curtiss: Okay, they did state that they purchased it in 1972 and they haven't done any other family transfers. I'll close the hearing.

Commissioner Bill Carey made a motion that the Board of County Commissioners approve the request by Richard and Sharon Evans to create three additional 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 Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

Chair Jean Curtiss: So you'll get a letter from us in the next few weeks, but you can have a surveyor do work ahead of that.

Unidentified Speaker: [Inaudible.]

Chair Jean Curtiss: Total of three.

Cathie Cichosz: The motion was two.

Chair Jean Curtiss: Two additional parcels.

Cathie Cichosz: Two additional okay.

Mike Sehestedt: So that makes a total of three. They won't have to tell any of their kids [inaudible].

Chair Jean Curtiss: Tell her that she didn't get any.

### **Hearing: Petition to Abandon a Portion of an Unnamed Road Bordering Reeves Addition**

Chair Jean Curtiss opened the hearing.

Charles Wright presented the staff report.

On the wall here, I have a large area map that shows the total area going through Section 28 and 27. This area right here, here is the Reeve's Addition and right there is where this proposed vacation is. To the west towards Highway 10, this portion right here, this yellow portion, was vacated in 1994. This portion over here on this particular road was vacated in 1991, and I have another one over here in 1990. Now we've been vacating these roads wily nilly. When I saw this, I thought, you know, we really ought to try to save this thing over here some how because we have this petition right-of-way going through here and we're trying to do a sewer system and all sorts of things like that. I think we really ought to be careful on doing a lot of these vacations. This particular vacation will not hurt a thing, right here, but I don't think we should vacate anymore of this stuff over here because I think you're going to end up having to buy some utility rights-of-way if you do that.

Chair Jean Curtiss: So the portion has to be...

Charles Wright: The portion right here...

Chair Jean Curtiss: ...abandoned within...

Charles Wright: ...this little chunk right here.

Chair Jean Curtiss: [Inaudible] lot, just within their lot?

Charles Wright: Yeah, it's within their lot.

Chair Jean Curtiss: Okay.

Charles Wright: I think that would be fine.

Chair Jean Curtiss: This is a hearing; I'll open it for other public comment.

Emily West: Emily West with Eli and Associates, I'm here to represent the applicant, Mike [inaudible]. That is the location of the new Western Plains Missionary building and so we did a lot aggregation to facilitate that new building. We are seeking to abandon the road to remove that encumbrance from the lot. There's really, as Chuck said, no reason for this and just ask for you to approve our [inaudible].

Chair Jean Curtiss: So currently, it goes through what will be a building?

Emily West: No, it does not. The building is south of there. The building's already constructed.

Chair Jean Curtiss: Thank you. Is there anyone else who would like to make comment? The law requires that when we have a request for a road abandonment or alteration that one Commissioner and someone from our Public Works Surveyor Division go and look at the property on site before we make a decision. We'll recess the hearing and it's Bill's turn to go. Do you think we can do it between now and next week? Should be able to do it this afternoon in the snow. We will have this on our meeting schedule for next week for a decision. Do you want to be notified when they're going to go on site? If you could come to the mic and give us your name and your phone number, then we'll make sure we call you.

Mike Matts: I'm Mike Matts from Billings, Montana, the owner of Western Plains Missionary. My--best way to reach me is cell phone, 406-671-0700.

Chair Jean Curtiss: Kind of noisy in here, 671?

Mike Matts: 0700.

Chair Jean Curtiss: Oh, one of those easy numbers. Mr. Matts, are you in town some of the time and...?

Mike Matts: I'm back and forth; I've got nine locations in Montana and Wyoming.

Chair Jean Curtiss: Okay, so we'll try to coordinate that with you.

Mike Matts: Very good, if you can't then you can just call the branch here and let them know [inaudible].

Chair Jean Curtiss: Because they're in the building already?

Mike Matts: Yeah, they're in the building already.

Chair Jean Curtiss: So what's their number? Emily will get it to us.

Mike Matts: its number five on the speed dial.

Chair Jean Curtiss: Okay, we'll push that and see what we get.

Mike Matts: Thank you.

**Hearing - Continued from June 4, 2008: East Missoula Addition #2 (9 lots on 1.71 acres) - Sommers & Iowa in East Missoula**

Chair Jean Curtiss opened the hearing.

So the next hearing is a continuation from last week, the East Missoula Addition #2, nine lots on 1.71 acres on Sommers Street and Iowa Street in East Missoula. So last week we delayed decision to take a little bit more time to look at the road and sidewalk issue. Janet, would you like to give us a little background?

Janet Rhoades presented the staff report.

Sure, I'm not planning to do another presentation. [Inaudible] just update, I've handed out a memo, which I think includes what has been discussed at past Planning Board, Planning Status, and BCC meetings, all in one place with the language. The first one, Condition #2, we talked about filing Block 44 simultaneously with this subdivision because of the [inaudible] issue with the right-of-way for the cul-de-sac. The second one, Condition #10, includes the language that I think may have already been approved, that the Commissioners requested at BCC last week. Then 12, 14, and 15 as we discussed--or sorry, 13, 14, and 15 have the amendments necessary to replace the 14-foot alley with the 5-foot trail. So that's what's going on here and then I do have some information that was requested at BCC and Planning Status relating [inaudible] Addition, which is the subdivision across Sommers Street that was approved last July, so just under a year ago, but I do want to emphasize that was under old subdivision regulations. It doesn't necessarily directly compare.

The improvements--there were three variances requested for Sommers Street for sidewalk, curb and gutter, and then pavement. The pavement doesn't apply anymore, but staff recommendation was approval of the sidewalk and boulevard variance for Sommers Street, and approval of the curb and gutter, and denial of the paving and all three of those were approved by BCC.

Chair Jean Curtiss: So they did not have to build the...

Janet Rhoades: The sidewalk.

Chair Jean Curtiss: ...boulevard or...

Janet Rhoades: ...curb, gutter...

Chair Jean Curtiss: [Inaudible] or any kind of sidewalk.

Janet Rhoades: Right, that's correct, so those variances were approved last summer.

Chair Jean Curtiss: But they have an RSID waiver?

Greg Robertson: Yes, they do.

Janet Rhoades: Yes. I looked into the minutes and there wasn't really much discussion on it. I'm here if you have further questions.

Chair Jean Curtiss: So last week was when Cathie tried out her new equipment, so we have to remember what we did.

Cathie Cichosz: I could open it up and tell you, in a summary way.

Chair Jean Curtiss: I think that we had--to get ourselves where we were at last time. We had approved #1, right, Variance #1, Planning Board's recommended motion to allow the two 15-foot utility easements to remain at 15 feet? We were discussing Variance #2 I think when we--but we also did go into some of the--if I remember right, we were talking about Condition #10 and trying to figure out a way to give some flexibility to the developer so that all the vegetation didn't have to be [inaudible]. I don't think we've made a motion on that. Can you tell that Cathie by looking?

Cathie Cichosz: On #10? Condition #10, Larry, he made a motion, but he withdrew it later on, amending Condition #10. That was to--plans for a 5-foot wide sidewalk with minimum 7-foot landscape boulevard swales around the western side of Sommers Street in coordination with the planned paving of Sommers Street by County Public Works, shall be reviewed and approved by Public Works prior to final plat approval...is that somewhere on here, on your handout? So that's the motion he made and then it was suggested that you postpone the decision for one week.

Chair Jean Curtiss: Because that was when Mr. Ewart brought up whether or not we were going to ask for that additional 10-foot...

Cathie Cichosz: Right.

Chair Jean Curtiss: So I think between last meeting and this meeting is when I know I went out and looked at the site, just did a drive-by, Greg did. I know staff went out and took some photos that they showed us on Monday. I think our challenge is to figure out a way to allow a little flexibility there so we don't lose all the vegetation anyway. We also could see from the pictures where the existing right-of-way was. Any ideas?

Commissioner Bill Carey: I think the language in the amended Condition #10 covers that.

Commissioner Larry Anderson: I think the only question was about the 10-foot public access easement. Is that the question that provided for the water line to come down along the road? Would that [inaudible] an issue that is still in play?

Mike Sehestedt: What we had on the plat, it showed a 10-foot easement for that water line. It's been suggested that, because it's just a glorified service line, that they could delete that and connect the homes directly to the main that has been placed in Sommers Street. The public access easement at 10 feet would basically occupy the same ground as the easement that appears on the preliminary plat. The issues, in addition to the vegetation, were questions and concern about how meaningful this would give development on the rest of Sommers Street all the way up to the main road.

Chair Jean Curtiss: Right, there was concern about whether we wanted to do boulevard sidewalks here when the development pattern for the rest of the area looks like it wouldn't be very feasible because of some of those very narrow lots.

Commissioner Larry Anderson: This would be all within a 50-foot right-of-way, is that correct, without that 10-foot easement?

Greg Robertson: Yes.

Janet Rhoades: Sorry, which--the Condition #10...

Commissioner Larry Anderson: Condition #10.

Janet Rhoades: ... still includes an additional 10-foot of public access easement, if the Commissioners want, that sentence would be easy to strike from...

Commissioner Larry Anderson: So if we just struck the last sentence that would eliminate that...

Janet Rhoades: It would eliminate the 10-foot public access easement, but not the water line easement, the utility easement. If the Commissioners want to pursue that, I can provide language to do that separately.

Commissioner Bill Carey: But I thought we said that 60 feet would be good to be able to do the sidewalks?

Greg Robertson: Sixty feet is desirable. The one thing that I did notice about that particular area, there's a fairly large tract immediately to the south of east, access off of Sommers' extension, the gravel road where it turns and heads to the east. That curve is awfully tight and it is likely, given the utilities in the area, that we would probably look at offsetting the road for paving within the right-of-way, to try and flatten the curve out a little bit more to make it a little more gentle. That was probably the only thing that I saw that would be a benefit of having some additional right-of-way on the west side of Sommers Street.

Commissioner Larry Anderson: Would that be impacting this subdivision or would that be impacting something later down the road?

Greg Robertson: In terms of design, if I were to start on it today, one of the things that I would look at doing would be to try and flatten the curve out where it heads south and then turns east. As much as practical and, in order to do that without acquiring additional right-of-way, I would probably crowd the road to one side of the right-of-way, further towards the west, to try and get a little bit more of a run-out on that side. That would be about the only thing that I would probably change.

Mike Sehestedt: Right at the curve, I think the area is not in this proposed subdivision.

Greg Robertson: No, it's not.

Mike Sehestedt: [Inaudible].

Chair Jean Curtiss: Did the applicant want to speak? Oh, I didn't see you sneak in Ron.

Ron Ewart: Good afternoon, I'm Ron Ewart with Eli and Associates and Don and Pat [inaudible] are here. One thing, I don't know if we need a condition on this or not, but what we discussed was if the sidewalk were to be required on Sommers Street, that that part of the improvements agreement or that bond or whatever could be put out into the future so that hopefully it would match up with the time that Sommers Street is paved. I don't know if any of the conditions, as long as it's in the minutes, and we understand and agree that we can do that.

Then I think we're [inaudible] a long way here. I believe we're pretty much in agreement with the conditions as far as I can tell. Of course, with the deletion of the last sentence on #10, this very important issue to Don because additional 10 feet would be the same thing as losing it--as if it were right-of-way because the sidewalk could be placed all the way in there. With the 50-foot right-of-way, I think there's enough room in there. We'd have room between the edge of the pavement and the sidewalk. It's not specifically required by the regulations [inaudible] all up and down Sommers Street as we mentioned, that's already all built out on both sides all up and down Sommers from this point up to Highway 200. As somebody said last week, it's not really fair for him to give the extra two feet when the rest of the block doesn't. I think we can work with the existing 50 feet. It's not idea, but it is what it is and I think it would work just fine. Again, I think we're okay with everything. We made a lot of concessions, a lot of headway, and except for that last sentence on #10. Thank you

Chair Jean Curtiss: Ron, I have a couple questions. One, the utility easement along Sommers Street needs to be there until those lines are moved.

Ron Ewart: Well...

Chair Jean Curtiss: So how do we take care of that?

Ron Ewart: I don't think that we would file the plat with that easement on it because I think that would be part of the improvements that we would do. We could through that into the improvements agreement that we're going to hook this house on Lot 4 up to the main that's in Sommers Street at the same time that we do other work. We got a contract here and there that's doing work that's part of his bid and so on.

Chair Jean Curtiss: Mr. Sehestedt, did you have an idea how to take care of that?

Mike Sehestedt: I think you need to put something in the conditions [inaudible] it's going to go away, some preliminary plat now, if you approve it and you're silent, you can't do the plat without showing that.

Chair Jean Curtiss: So we could have something that said if the utility lines are moved...

Mike Sehestedt: If...

Chair Jean Curtiss: ...it could be amended?

Mike Sehestedt: Yeah, permit removal of the utility easement conditional upon connection--conditional upon abandonment of the water line in that easement. That's an easy condition to meet if you're hooking a house up to the main, so that--we'd just add a new condition. I'm not sure what the last number is, that says, "Water--The utility easement along the easterly boundary may be deleted upon connection or abandonment of the water line."

Chair Jean Curtiss: Yes, Janet?

Janet Rhoades: I do have some suggested language and I apologize that it didn't make it onto the memo. If you want to pursue that, I propose language, a new condition, "The proposed 10-foot utility easement along Sommers Street shall be removed from the plat if the subdivider provides proof of abandonment of the water line along the property boundary at Sommers Street, subject to review and approval by OPG prior to final plat approval."

Mike Sehestedt: And people accuse me of being wordy.

Chair Jean Curtiss: She's learned from you, Mike. So the other one is in regard to the sidewalks. I'm just curious if we go forward with sidewalks, can we have--put that out a ways so that they didn't have to do that if they had a bond for it, an improvements bond for like three years or give them time to get some other stuff done.

Greg Robertson: The typical improvement guarantee is good for a period of one year with annual extensions. You could continue to extend that. We have done that in the past with several subdivisions with extenuating circumstances. Most recently out in the Wye area with the sewer going in and proposed road improvements, they'd like to get the sewer in first, so they've delayed those improvements [inaudible] probably our fourth or fifth extension, so yeah, that can be reasonably done.

Chair Jean Curtiss: So it would be a condition with BCC approval.

Greg Robertson: Yep.

Chair Jean Curtiss: The other, Ron, is just that the practice in the area seems to be parking on the streets, along the streets, which is normal in most neighborhoods in Missoula, in East Missoula. That would be the challenge, I think, with trying to fit everything in 50 feet. Any response? I mean I noticed that there weren't necessarily cars in front of this property when I drove out there the other day, but there definitely were along Sommers Street.

Ron Ewart: You're going to have some space between the face of the sidewalk on out. It depends on how wide you build the road. Out here, I don't think we're going to need to build deep swales like you see up in Country Crest and so on because it's pretty much gravel and rock is what the soil is. You could go wider than 24 feet. We have a curbside sidewalk and then that would allow for parking on both sides. You get clear up to a 36-foot street, actually, a 40-foot street, if you had curbside sidewalks on both sides. So there's plenty of room for wider street if they wanted to go that route.

Chair Jean Curtiss: Any other questions for Mr. Ewart at this time? Thank you.

Mike Sehestedt: I want to point out something [inaudible] to the street [inaudible] brought to the [inaudible] and that is the requirement for a 7-foot landscaped boulevard next to a 24-foot wide street with no curb and gutter. It's going to be basically landscape by [inaudible], I think, as people park on it.

Chair Jean Curtiss: That's true. Janet, I'm sorry.

Janet Rhoades: May I ask a question of Mr. Robertson? Based on what you were saying about the improvements guarantee, is it a problem that Condition #10 has now been modified to say the [inaudible] of the improvements may be extended to June 11, 2012? Does that mess you up procedurally? Would it be better to strike that since it seems like there's already a way for that to happen?

Greg Robertson: I think given the direction where things are heading with the Department of Transportation on local [inaudible] developed projects, I couldn't tell you their timeline for doing it, but the direction I think I'm heading is just to let MDT do it and we'll see it in a few years. I think what we'll do when it comes down to actually putting the improvement in the ground is coordinating both of those with the MDT contract to ensure that the sidewalk goes in at the same time the pavement works done. We would carry that surety far enough along and of adequate dollar amount to account for increased cost and that sort of thing.

Chair Jean Curtiss: So what you're suggesting is that the sidewalk project that they do, we would coordinate with the paving of Sommers...

Greg Robertson: Yep.

Chair Jean Curtiss: ...whether we decided boulevard or curbside was the best?

Greg Robertson: Yep.

Chair Jean Curtiss: The improvements guarantee could be there to pay for their portion?

Greg Robertson: Likely what's going to happen is if we stick with the 50-foot, it'll be curb/gutter. I'm almost positive that's what MDT will go with.

Chair Jean Curtiss: So do we want to strike the word, the timeline may be extended and just work with the annual extension?

Greg Robertson: I think we just work with the annual extensions. It seems to have worked in the past.

Mike Sehestedt: I would respectfully differ. I think we get a four-year window on it. It makes it clear that we intended all along to extend the guarantee and also [inaudible] up annually is always a little nerve-wracking.

Greg Robertson: Okay, fine.

Mike Sehestedt: And besides four years, even MDOT should be able to...

Greg Robertson: I wouldn't count on it, more closer to five.

Chair Jean Curtiss: So I guess the discussion the Commissioners need to have is whether or not the additional 10-foot.

Commissioner Larry Anderson: So we're working on Condition #10, is that right?

Chair Jean Curtiss: And the hearing is still open, so I guess if there's no more public comment, I should close the hearing. Yes, Mr. Calder?

Don Calder: Don Calder and I'm the owner of the proposed subdivision. I have a couple things that possibly might not pertain exactly to this, but I will speak on that first. I believe that the 50-foot right-of-way is the right amount, then. I believe that it, from the way Mr. Robertson staked it out, it's going to look very nice. It's going to be a real addition to the area. The area is an area that you all know that needs a lot of work and I'm all for sidewalks all the way down the street if we can do it somehow, but I believe in the 50-foot right-of-way.

Another thing that Mr. Robertson said and, I believe I would really appreciate it if you folks could look into it, Mr. Robertson too, on the subdivision, we are required, and also the subdivision that Pat's putting in which adjoins mine, which we're working together on. We're required to pave Iowa Street and in the past both Sommers and Iowa Street, the neighbors have called and asked about paving and they've said, it's coming. We are, Pat and I, these subdivisions are very modest as far as scope. We're very limited on our funds and Mr. Robertson said that there is state money, a grant for state money in place and has been in place for, I believe it was approximately 10 years for paving all the unpaved streets in East Missoula. Iowa Street is in approximately the same situation as Sommers Street is. The hard pack is already in and it looks like it could be paved right over the top of right now, as far as what Mr. Robertson was getting to. If it's possible, is there some way that Mr. Robertson or you folks could check into [inaudible] has already been allotted pretty much, I guess, for Iowa Street too because that's quite a hardship on Pat and I to pave the public street on our own. I'd appreciate anything you can do in that case. That would be greatly appreciated. Thank you very much.

Chair Jean Curtiss: Greg, I know that you've said in the past there were several roads out in that area, streets that were on the list.

Greg Robertson: There are three identified in the original proposal, Judy Drive, Utah Drive, and Sommers Street.

Chair Jean Curtiss: So Iowa wasn't on the original list...

Greg Robertson: No, and I doubt that there would be adequate funding to do that given the monies that we have available.

Chair Jean Curtiss: So the state allocates X number of dollars a year and we get on a list? How does it work? This is CMAC money.

Greg Robertson: These are CMAC dollars and these are determined locally. It's part of our Transportation Plan Update, where we go through the drill of the universe of projects and try and fit them in in the various categories to yield the most bang for the buck. CMAC is highly sought after by transit, the city, and to a limited extent, the county. I suppose that project could be, Iowa Street, could be nominated as potential, but it would fall in line with all the rest of them. Whether it would get funded or not would be a matter for the [inaudible] to decide.

Chair Jean Curtiss: So when you expect that you're just going to let the state. In the past we tried to do some of these projects and got reimbursed from the state, so now it seems like that process is flawed. So you're planning to let the state do Sommers Street...

Greg Robertson: The only real alternative that we have, at least in my judgment, is to let the state do it. I wasn't given that option with Scott Street overpass. That was going to be the first project I was going to develop and I was told in no uncertain terms that local agencies are not capable of developing their own projects and that if I wanted to see it done that I would have to let the state do it. They've softened their stance just a little bit, but the new [inaudible] they've thrown into the soup is that you now have to front all of the money and then they will decide after you're all done whether you get reimbursed or not, whether you qualify. That's totally contrary to how the manual and the program was envisioned and developed in most other states.

Chair Jean Curtiss: So Sommers, Judy, and Utah are on the list, but we don't have any idea when they would actually get done?

Greg Robertson: I can only go based on the track record that I've seen. It would probably be in the three to five-year timeline, closer to the five. I'd like in that to--Scott Street Overpass, we're coming on five years now from when the funds were originally obligated.

Chair Jean Curtiss: Are these funds obligated?

Greg Robertson: They are available, they have not obligated. What would end up happening is we will respond back to the Department of Transportation; tell them we're not accepting their offer, and that they need to do the project. Then, we'll get in the loop with all the other projects and find out when we get scheduled. We really don't have much say on it after we let it go. They have their own timelines and their own schedules and we're not part of that discussion.

Chair Jean Curtiss: Are there other streets in East Missoula besides Iowa that aren't paved? I know three that you listed.

Greg Robertson: You know, I'm unaware of them. No, I don't know. I'm sure there are some very short stretches, but most of the roads and alleys have been paved.

Commissioner Larry Anderson: We're getting kind of far a field of where we should be focusing, but if we take that course and we turn that, let the state do it, would that push back other projects that we already have in the queue that don't involve CMAC funding?

Greg Robertson: It would depend on the state's process. They have this term they call "red booking" where they kind of prioritize projects and who gets what resources and what. We're not part of that conversation, so we find out about it after the fact that the decision is made. I couldn't tell you whether if something else will get bumped, but my guess is that this will just fall in line with the rest of them to get done when it gets done.

Chair Jean Curtiss: Is there any other public comment before I close the hearing? Then I'll close the hearing.

Commissioner Larry Anderson: I guess getting back to Condition #10, I'm included to go along with the 50-foot right-of-way and that would incorporate the plans for a 5-foot sidewalk and a minimum 7-foot landscape boulevard or swales on the west side of Sommers Street. Is that--if we make that Condition #10 and leave the timeline in there and eliminate the [tape ended]?

Commissioner Bill Carey: So Commissioner Anderson, would your motion be to strike the last sentence in Condition #10?

Commissioner Larry Anderson: Yes.

Commissioner Larry Anderson made a motion that the Board of County Commissioners amend Condition #10 to read, "Plans for 5-foot wide sidewalks with minimum 7-foot landscaped boulevards/swales along the western side of Sommers Street, in coordination with the planned paving of Sommers Street by County Public Works, shall be reviewed and approved by Public Works prior to final plat approval. The boulevard width may vary in order to protect existing vegetation, as approved by County Public Works. The timeline of the improvements guarantee may be extended to June 11, 2012." Commissioner Bill Carey seconded the motion.

Chair Jean Curtiss: So we did write in here with the underlined--we're talking about the lavender memo that the boulevard width may vary in order to protect vegetation, that allowed that 7-foot to vary there to go around trees or whatever. Is there further discussion on the amendment to #10? So the amendment would be to insert the underlined as proposed and strike the last sentence.

The motion carried on a vote of 3-0.

Commissioner Larry Anderson: Now do we need to go back to the variances here and...

Chair Jean Curtiss: I think we need to--oh.

Commissioner Larry Anderson: ...because that was related to Condition #10, I believe wasn't it. That's the white memo with the Planning Board recommendations.

Chair Jean Curtiss: Right, so #2 now would be approved conditionally, conditionally approved right?

Commissioner Larry Anderson: Right.

Chair Jean Curtiss: Okay, so I guess we could do that one.

Commissioner Larry Anderson: Go ahead.

Janet Rhoades: My understanding is that we could fit sidewalks and boulevards in the 50-foot right-of-way, so striking the ...

Greg Robertson: Most likely...

Janet Rhoades: ...10-foot right-of-way doesn't affect that motion, is that right?

Greg Robertson: Most likely, what would happen is it would have to be curb/guttered in order to do that. I don't think we could get proper drainage in the space that's allowed, so we would have to tight line it actually is what we'd have to do.

Commissioner Bill Carey: We need to deny that second variance.

Janet Rhoades: Correct.

Commissioner Bill Carey: Is there a...

Janet Rhoades: And I thought you already had ...

Greg Robertson: What I think...

Janet Rhoades: ...so I don't know if we...

Greg Robertson: What I think probably needs to be done is if we're going to go with a 50-foot right-of-way then we still ought to have the [inaudible] of the width because if you extrapolate it out, the total width is occupied 100% of the right-of-way with no room for errors. We're going to want to snug it in a bit, because we still have to plan for utilities and other things within that limited right-of-way.

Commissioner Larry Anderson: I believe that's what that Condition #10 said with the boulevard width may vary in order to protect existing vegetation as approved by the County Public Works.

Chair Jean Curtiss: So Greg, are you saying though that boulevard sidewalks won't really fit in 50 feet?

Greg Robertson: It's really going to be tight. In a theoretical word, yeah, it would fit, but it really doesn't in practical terms because you have terrain and other issues that are going to preclude being able to put in proper drainage. Swales are not going to work in 50-foot right-of-ways, simply not practical. What'll end up happening is it'll have to be tight-lined or curb/gutter installed directly [inaudible] appropriate location, which will allow flexibility for placement of the sidewalk behind the curb.

Cathie Cichosz: I have a motion that was approved last week. The motion was made by Commissioner Larry Anderson to deny the variance request from Article, la da da da, requiring installation of 5-foot sidewalks and 7-foot boulevards on Sommers Street with a friendly amendment to add, "provided that boulevard width may be varied as necessary to protect existing vegetation and then an amendment added to it to extend the normal improvements guarantee to four years. It carried on a vote of 3-0. That was denied.

Chair Jean Curtiss: So I guess right now, we've passed that motion last week and we just did #10 this week.

Mike Sehestedt: I think #10 is consistent with that. I think we're [inaudible] and four square. Greg is just saying...

Chair Jean Curtiss: We just said it twice.

Mike Sehestedt: Yeah.

Chair Jean Curtiss: Okay, so we're okay.

Cathie Cichosz: And there too, Mike had suggested that we revisit the motions and the votes on the variances.

Mike Sehestedt: Now we're resolved it, so we don't need to.

Chair Jean Curtiss: So we think we're still okay. Does staff think we're okay?

Janet Rhoades: I just have--may I ask another question of Mr. Robertson? Curbs not required in the subdivision regulations, so is that something that would be installed by MDT?

Greg Robertson: Yes, it'll be part of the CMAC [inaudible].

Janet Rhoades: Okay.

Mike Sehestedt: Given what we've got, what he's saying is the design most appropriately will include that.

Greg Robertson: Curb, gutter--more of an urban standard.

Chair Jean Curtiss: So now we need to look at the rest of the...

Commissioner Larry Anderson: Conditions?

Chair Jean Curtiss: ...conditions to see if there were any changes there. So #2 and that was to clarify because we have two people doing subdivisions. Fortunately the same surveyor is doing both, so in order to make sure

that everything happens together it would be simultaneously-file them simultaneously so they could be reviewed together.

Commissioner Larry Anderson made a motion that the Board of County Commissioners amend Condition #2 to read, "The plat adjustment to the East Missoula Addition, Block 44 shall be filed prior to or simultaneously with final plat approval of this subdivision, subject to review and approval by OPG prior to final plat approval." Commissioner Bill Carey seconded the motion.

Chair Jean Curtiss: I was just wondering if we said it backwards? Whether we should have said that this one should be filed with the other one because--you know what I'm saying? I guess it doesn't matter because this subdivision is the one we're dealing with today, but we're talking about the other subdivision's plat. I guess we understand what it means.

Janet Rhoades: I think the simultaneously with it will work. [Inaudible] final plat review.

The motion carried on a vote of 3-0.

Chair Jean Curtiss: Okay, we've done two, we've done 10.

Commissioner Larry Anderson made a motion that the Board of County Commissioners amend Condition #12 to read, "The 30-foot Private Access Easement/Public Pedestrian Easement shall be amended on the final plat to be a 20-foot Public Pedestrian Access Easement, to be reviewed and approved by the County Surveyor's Office prior to final plat approval." Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Larry Anderson made a motion that the Board of County Commissioners amend Condition #13 to read, "The final plat shall include a one-foot no-access strip along Lots 3, 4, 6, and 7 adjacent to the 20-foot Public Pedestrian Access Easement, subject to review and approval by County Public Works prior to final plat approval." Commissioner Bill Carey seconded the motion.

Chair Jean Curtiss: Just a question, that doesn't mean somebody can't have a sidewalk out to it, right?

Mike Sehestedt: The no-access strip is referenced strictly to vehicular traffic.

Chair Jean Curtiss: And we have that written somewhere in our regs so that's clear?

Mike Sehestedt: Better [inaudible] can't step out of their yard to the trail.

Chair Jean Curtiss: Let's put a nice trail and you guys can look at it.

Janet Rhoades: Well, the no-access is related to infrastructure, right? It doesn't mean you can't walk across the line, it just means that you couldn't put a driveway access [inaudible].

Mike Sehestedt: That's what's intended and I think made that intention [inaudible] clear.

Chair Jean Curtiss: Just so we are clear that this is vehicular access and you might be able to drive your riding lawn mower across it, however, so you can mow.

Commissioner Larry Anderson: Janet will be out there to enforce it.

The motion carried on a vote of 3-0.

Commissioner Larry Anderson made a motion that the Board of County Commissioners **delete** Condition #14, which reads, "Plans for combined emergency vehicle/pedestrian/Lot 3 driveway access between Iowa Avenue and Sommers Street, including paving, access control features, and restrictive signage, shall be reviewed and approved by County Public Works and the Missoula Rural Fire District prior to final plat approval. Access control features may include but not be limited to bollards, barricades and crash gates, and shall be installed at locations to permit Lot 3 driveway access, but restrict routine vehicular traffic between Iowa Avenue and Sommers Street." Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Larry Anderson made a motion that the Board of County Commissioners amend Condition #15 to read, "Plans for a 5-foot wide paved pedestrian walkway within the 20-foot Public Pedestrian Access Easement shall be reviewed and approved by Public Works and County Parks prior to final plat approval." Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

Chair Jean Curtiss: Then we need to do a new one with that utility easement. Janet worded that very nicely.

Commissioner Larry Anderson: Would you care to read that?

Janet Rhoades: I'm sorry it didn't make it onto the memo.

Chair Jean Curtiss: This would be new number, what number here?

Commissioner Larry Anderson: We've eliminated 14.

Chair Jean Curtiss: It could be a new number 14?

Janet Rhoades: I'll put it in where it's appropriate. The language is, "The proposed 10-foot utility easement along Sommers Street shall be removed from the plat if the subdivider provides proof of abandonment of the water line along the property boundary at Sommers Street, subject to review and approval by OPG prior to final plat approval."

Commissioner Larry Anderson: I notice on the plat here that they show service lines coming off of that line to Lot 3, Lot 4, and also the house on Lot BC.

Chair Jean Curtiss: Would you like to address that Ron?

Commissioner Larry Anderson: Pardon me?

Janet Rhoades: What's the question?

Commissioner Larry Anderson: I show that service line extending to the house on Lot 3, Lot 4, and also off of that subdivision to an adjacent one and I just wondered if that line is going to be abandoned, do we have to reference all those connections?

Chair Jean Curtiss: So it looks like its WS, so water service.

Commissioner Larry Anderson: Yeah, water service lines.

Chair Jean Curtiss: So you might still need to show water service lines even if the main line connection is moved out to the street.

Commissioner Larry Anderson: Don, do you want to...? Excuse me.

Chair Jean Curtiss: Sure, that's fine. Mr. Calder.

Don Calder: Again, that line, when there was no other buildings in that area, Mike [inaudible] which was the person that I bought the places from, put a service line down the edge of that street that you're talking about there. That services the house on the corner of Sommers Street there and it services the existing--all the existing houses to the end of Sommers Street. I would propose that it's been very adequate for those houses. It's not a big--it's a one-inch steel line, it's getting old, but it does provide good service to the homes that are there right now. I would say that if we have any trouble with that line in the future that we go to the main line, which is a new line which is [inaudible] street that was put in like four or five years ago at the very most. That is a line that does service one, two, three, four, five houses that goes on down through there.

Chair Jean Curtiss: So then, it sounds like, Mr. Calder, that maybe we should leave that because the line exists and if you don't want to replace it before you file the plat, then it needs to be shown.

Don Calder: Yeah, yeah, I think it would be very expensive at this time to put new lines in to all five of those houses. I own the house above this subdivision, I own the two houses past the subdivision, and they are adequate--I mean you know the water is fine and I do have enough pressure, everyone has to do their yards and stuff. I don't know how that's handled. If you have to leave that for that line or not because if something was going to happen in one of the houses, if we had trouble with water or something, I'm sure though I would want to go out to the new main line.

Mike Sehestedt: I think the condition as worded by Janet covers all contingencies. If...

Chair Jean Curtiss: If you leave it on the plat, if you don't.

Mike Sehestedt: If they leave it, it's on the plat, if they replace it, then they can take it off the plat. If it's denominated a water line easement on the face of the plat once it's gone, it's gone. Life is good for all of us and nobody's under any pressure to do anything.

Chair Jean Curtiss: So Larry was your question, should we have the other water service lines in that motion in case they go away?

Commissioner Larry Anderson: I just wanted to make sure that if we do eliminate that that we aren't cutting off somebody's water off--that's not on--as a part of this subdivision. I guess I didn't want to cause problems for people, these other two houses at the end of Sommers and the one up above it, if that line were abandoned.

Janet Rhoades: That's a very good point and I'm sorry that we missed that. I was going to ask Mike whether they would need to get Lot 8C approval to abandon that water line because Lot 8C is served by it.

Chair Jean Curtiss: But, Mr. Calder you own that one too?

Don Calder: I own all three of them. I own that whole block on Sommers Street.

Chair Jean Curtiss: So I don't think he'd cut off his nose to spite his face.

Janet Rhoades: I'm sorry I missed that.

Chair Jean Curtiss: So I think that condition then is okay. It gives you the opportunity to do that if you want. If you're not going to, you just show it.

Commissioner Larry Anderson made a motion that the Board of County Commissioners create a new condition to read, "The proposed 10-foot utility easement along Sommers Street shall be removed from the plat if the subdivider provides proof of abandonment of the water line along the property boundary at Sommers Street, subject to review and approval by OPG prior to final plat approval." Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Larry Anderson: Does that take care of all the conditions and variances then?

Commissioner Larry Anderson made a motion that the Board of County Commissioners approve the East Missoula Addition #2 Subdivision based on the findings of fact and subject to the recommended conditions of approval as amended today and by the Planning Board. Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

Chair Jean Curtiss: It took us two weeks, but we got through it.

### **East Missoula Addition #2 Subdivision Conditions of Approval**

1. The East Missoula Addition, Block 37 & 44 and Braaten's Addition to East Missoula, Lot 8 amended subdivision plat shall be filed with Missoula County prior to final plat approval of this subdivision, subject to review and approval by the County Surveyor's Office and OPG prior to final plat approval. (*Subdivision Regulations Article 5.1(4)(J) and County Surveyor's Office recommendation*)

### Roads, Access and Utilities:

2. The plat adjustment to the East Missoula Addition, Block 44 shall be filed prior to or simultaneously with final plat approval of this subdivision, subject to review and approval by OPG prior to final plat approval. *(Subdivision Regulations Article 5.1(4)(j) and County Surveyor's Office recommendation)*
3. Plans for a paved cul-de-sac turnaround with curb and gutter on Iowa Avenue providing legal and physical access to Lots 5-9 and adequate right-of-way dimensions shall be reviewed and approved by Public Works and Missoula Rural Fire District prior to final plat approval. Required cul-de-sac improvements within an adequate public access easement shall be completed prior to final plat approval, subject to review and approval by Public Works prior to final plat approval. *(Subdivision Regulations Article 4.1.13(1) and OPG recommendation)*
4. Plans for installation of "No Parking" signs where required for Sommers Street and Iowa Avenue shall be reviewed and approved by County Public Works and Missoula Rural Fire District prior to final plat approval. *(Subdivision Regulations Article 3.2.2.2(4) and Missoula Rural Fire District recommendation)*
5. A minimum 25 feet wide and 20 feet deep shared driveway easement shall be depicted on the final plat along the common boundary of Lots 1 and 2, to be reviewed and approved by OPG prior to final plat approval. The shared driveway easement shall be located outside of the required 100-foot public access easement adjacent to Sommers Street, with location to be reviewed and approved by OPG prior to final plat approval. *(Subdivision Regulations Article 3.2.2.6(7) and OPG recommendation)*
6. The proposed 10-foot utility easement along Sommers Street shall be removed from the plat if the subdivider provides proof of abandonment of the water line along the property boundary at Sommers Street, subject to review and approval by OPG prior to final plat approval.
7. The following note shall be added to the face of the plat:

"The owners of East Missoula Addition #2 Subdivision understand and agree that Missoula County is in no way obligated to provide road improvements, or perform maintenance, upkeep or snow removal for Iowa Avenue until the road, including turnaround, is built to county standards and accepted by Missoula County for maintenance." *(Subdivision Regulations Article 5.6(4)(k))*

### Fire

8. The developer shall provide a water supply for fire protection that produces 1000 GPM with a hydrant. Plans for a water supply and hydrant location shall be approved by Missoula Rural Fire District prior to final plat approval. Fire hydrants shall be installed prior to combustible construction as required by the Missoula Rural Fire District approved hydrant plan. *(Subdivision Regulations 3.7(1) and Missoula Rural Fire District recommendation)*
9. Plans for address signs, including size and location, shall be reviewed and approved by Missoula Rural Fire District prior to final plat approval and the approved signage plan shall be incorporated into the covenants, subject to review and approval by OPG prior to final plat approval. *(Subdivision Regulations Article 3.2.2.2(4)(c) and Missoula Rural Fire District recommendation)*

### Pedestrian Facilities

10. Plans for 5-foot wide sidewalks with minimum 7-foot landscaped boulevards/swales along the western side of Sommers Street, in coordination with the planned paving of Sommers Street by County Public Works, shall be reviewed and approved by Public Works prior to final plat approval. The boulevard width may vary in order to protect existing vegetation, as approved by County Public Works. The timeline of the improvements guarantee may be extended to June 11, 2012. *(Subdivision Regulations 3.2.4 and OPG recommendation)*
11. Plans for 5-foot wide sidewalks with minimum 7-foot boulevards along the Iowa Avenue cul-de-sac shall be reviewed and approved by County Public Works prior to final plat approval. *(Subdivision Regulations 3.2.4 and OPG recommendation)*
12. The 30-foot Private Access Easement/Public Pedestrian Easement shall be amended on the final plat to be a 20-foot Public Pedestrian Access Easement, to be reviewed and approved by the County Surveyor's Office prior to final plat approval. *(Subdivision Regulations Article 4.1.13(1) and OPG recommendation)*

13. The final plat shall include a one-foot no-access strip along Lots 3, 4, 6, and 7 adjacent to the 20-foot Public Pedestrian Access Easement, subject to review and approval by County Public Works prior to final plat approval. *(Subdivision Regulations Article 3.1(7) and OPG recommendation)*
14. Plans for a 5-foot wide paved pedestrian walkway within the 20-foot Public Pedestrian Access Easement shall be reviewed and approved by Public Works and County Parks prior to final plat approval. *(Subdivision Regulations Article 3.2.3(5) and Missoula County Park Board Recommendation)*

#### Park Dedication

15. The applicant shall provide proof of payment of cash-in-lieu of parkland, subject to review and approval by County Parks prior to final plat approval. *(Subdivision Regulations 3-8 and County Parks recommendation)*

#### Weeds

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

#### Development Covenants:

17. The covenants shall be amended to include tree-planting responsibilities along Iowa Avenue and Sommers Street, subject to review and approval by OPG prior to final plat approval. This section shall also be amended to include OPG and County Public Works in review of the tree plan/landscape plan for each lot prior to building permit submittal. *(Subdivision Regulations Article 3.2.4(2) and OPG recommendation)*
18. Article I, Section 3 of the covenants shall be replaced with the following version of the Living With Wildlife guidelines provided by Montana Fish Wildlife and Parks, subject to review and approval by OPG prior to final plat approval:

“Section \_\_: Living with Wildlife.

- 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 and skunks. 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 in secure animal-resistant containers or indoors to avoid attracting wildlife such as bears and raccoons.
- 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. Pets should be confined inside homes, in a fenced yard, or in an outdoor kennel area, 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 hooved game animals and the owner may also be held guilty (MCA 87-3-124). Pet food should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears,

skunks, etc. When feeding pets, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.

- f. Purchasers of lots within this subdivision must recognize that portions of this subdivision are within one-tenth mile of the Clark Fork River where lawful waterfowl hunting and the associated discharge of shotguns could occur from early morning until sunset, and the season can run from September into January.

19. Article II, Section 2 (Amendment) shall be amended to include driveways, address signs, weeds, and living with wildlife as sections that may not be amended without governing body approval.

**Other Business**

There being no further business to come before the Board, the Commissioners were in recess at 2:46 p.m.