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**PUBLIC MEETING**  
**MISSOULA BOARD OF COUNTY COMMISSIONERS**  
**MONDAY, DECEMBER 22, 2008 – 1:30 P.M.**  
**ROOM 201 – COURTHOUSE ANNEX**  
**MINUTES**

**1. CALL TO ORDER**

[1:30:37 PM](#) Chair Jean Curtiss called the meeting to order at 1:30 p.m.

Commissioners Present: Chair Jean Curtiss, Commissioner Bill Carey and Commissioner Larry Anderson. Absent: None.

Staff Present: Deputy County Attorney James McCubbin, Office of Planning and Grants Floodplain Administrator Todd Klietz, Public Works Surveyor Steve Smith, and Public Works Director Greg Robertson.

**2. [1:30:44 PM](#) PLEDGE OF ALLEGIANCE**

**3. [1:31:04 PM](#) PUBLIC COMMENT**

**4. ROUTINE ADMINISTRATIVE ACTIONS**

a. Weekly Claims List for One Week (\$568,081.34)

[1:31:18 PM](#) Commissioner Larry Anderson made a motion that the Board of County Commissioners approve the weekly claims list in the amount of \$568,081.34. Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

**5. HEARING**

a. Appeal of Floodplain Permit Denial ([Verbatim transcription](#))

[1:31:28 PM](#) Chair Jean Curtiss opened the hearing.

[1:31:48 PM](#) Todd Klietz presented the [staff report](#).

[1:34:01 PM](#) Questions from Commission

[1:34:20 PM](#) Staff comment, James McCubbin, if denial of appeal, then variance could be considered

[1:35:46 PM](#) Staff comment Todd Klietz

[1:37:08 PM](#) Staff comment, James McCubbin

[1:37:45 PM](#) Staff comment, Todd Klietz

[1:39:05 PM](#) Questions from Commission

[1:40:53 PM](#) Break to provide hearing assistance equipment and projector setup

[1:44:24 PM](#) Recess hearing for projector setup

**6. CONSIDERATION**

a. Adoption of Public Works Manual

[1:44:26 PM](#) Chair Jean Curtiss opened the hearing.

[1:44:36 PM](#) Greg Robertson presented the [staff report](#).

[1:46:00 PM](#) **[Recording equipment malfunctioned, verbatim transcription from 1:46 p.m. to 2:02:04 p.m.]**

Greg Robertson: Well, now we're fairly consistent in our application, as well as have provided sufficient detail for standard plans, which is something that has not existed prior to this,

other than the real loose form of essentially any sort of construction activity that we would have related to a public or private road. It includes such things as our approaches, typical cross-sections for excavations, signage plans for detours and temporary construction signing. Also includes our approach permit process, in addition, our excavation process, all in one location that is now available to the engineering as well as the development community. We solicited comments as sort of a peer review from engineering firms. We do regular business with construction testing companies, as well as material suppliers and in addition to that, we solicited comments from the Office of Planning and Grants and Rural Initiatives. We received quite a bit of feedback, all of it we considered very positive and were appreciative to it. We incorporated it to the extent we feel comfortable with. The suggested changes or clarifications and before you is the finished product. So, I will conclude at this. If you have any specific questions, I'm here to answer them, as well as Brent O'Connor and Erik Dickson, who are the main authors.

Chair Jean Curtiss: Looks like it also has things like if you're going to do road construction, how far away you have to have signs.

Greg Robertson: Yes.

Commissioner Larry Anderson: Greg, Public Works covers a variety of activities, including building permits and surveying and that sort of thing. Does this apply to any of those activities or is it strictly related to roads and road-type construction standards and criteria?

Greg Robertson: They--this applies to road, bridge activities primarily. Frankly, that's, I think, one of our biggest weak points is not having a centralized location of where to find standards. We've sued in the past, Washington State's, DOT's design manual, their construction manual as examples. We've used the Montana Department of Transportation's manual to the extent, we have ASHTO; there's all these different varieties and we kind of pulled from each the best that we considered for our purposes and have customized it to the Missoula area. As far as building codes, they have their own set of statutes and provisions and so, no, that's not covered in here, and survey, the same way.

Commissioner Larry Anderson: Thank you.

Chair Jean Curtiss: Does this match up with what's in our subdivision regulations then?

Greg Robertson: Yes, it does. If there is a conflict, we have a section in here that says that the subdivision regulations will control if there's a conflict. We've tried to get it as close as possible and my review of it looks like we're very consistent with subdivision, but the subdivision regulations only go so far. They tell you how wide the roads are to be, but they don't tell you how deep the aggregate and the core is supposed to be, how thick the pavement is to be, all of those sorts of things that we typically have to hassle with afterwards. How it's clear and hopefully fairly concise.

Commissioner Larry Anderson: And these would be updated as subdivision regulations are updated and that sort of thing?

Greg Robertson: Yes. One of the things that OPG is wanting to do with the next redraft of the subdivision regulations is to remove all of the technical standards and put them in a separate manual, so to speak, and then incorporate that manual by reference to it to simplify the regulations and rely more on process than the technical stuff. This manual is intended to do that at some point in time in the future when we get to that point.

Commissioner Larry Anderson: I'd just like to commend you and your staff for doing this work, It's very important for folks to understand what standards are and how they apply and

be able to reference that, so I think this is an excellent manual and hope it will be well-used and provide people with the information they need.

Greg Robertson: It certainly should cut down on the number of questions we receive.

Chair Jean Curtiss: This is a consideration, not a hearing, but is there anyone from the public that would like to comment on the Public Works Construction Manual? Okay, I think it's a good thing to have easy access that will be downloadable.

Greg Robertson: This will be posted in our website and we'll also make it available by CD and hard copy to all of the companies that we typically do business with so that they'll have it available.

Chair Jean Curtiss: Okay. Further questions? James, in this case, do we have to--there's a resolution attached? Do we have to adopt this by resolution?

James McCubbin: I think it's best to do so, just so that we have clarity of record. The resolution will the date of publication, the date you held this hearing; it will help us keep a clear record.

Chair Jean Curtiss: So, we'd just make a motion to adopt this resolution

James McCubbin: Correct.

Commissioner Bill Carey: I took would like to thank Brent, Erik and, you for getting this together. I think it's going to be a big help down the road, so to speak.

Commissioner Bill Carey made a motion that the Board of County Commissioners adopt the resolution attached to the staff report, entitled "Establishment of a Public Works Construction Manual." Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

## **5. CONTINUATION OF HEARING: Appeal of Floodplain Permit Denial**

Chair Jean Curtiss: Okay, I'll reopen the hearing on the appeal of the floodplain permit denial for the Weinmann's. Were we not able to get the machine to help you?

Unidentified Speaker: [Inaudible, spoke from audience.]

Chair Jean Curtiss: Okay, we'll make sure we do that. Did you have any questions about what's been said so far? Would you like us to repeat any of it?

James McCubbin: I think we can have Mr. Weinmann come up and sit at the table too if you wanted to. That's not necessary, but if you wanted to come up, you could. I don't think anybody would object to that. Just need to accommodate.

Chair Jean Curtiss: Okay, so, I guess we can let Mr. Weinmann or your consultant give a presentation for your side of the story.

Unidentified Speaker: [Inaudible, spoke from audience.]

Chair Jean Curtiss: Okay, Mr. Anderson, if you could come up to the microphone then, to the podium one and if you have anything that you'd like to handout, that's good too.

Russ Anderson: My name's Russ Anderson with the Environmental Consulting firm called Telesial Solutions. I'm a professional Engineer in the State of Montana. I believe that you have all the documentation that we provided to the different agencies. The joint application and the supporting technical memorandum to Mr. Klietz, the Floodplain Administrator with regards to the stamped set of drawings and supporting information. I don't really know what else to add. I feel like I'm more here as a--in a capacity to represent Mr. Weinmann in a technical advisory capacity. If there's questions that the Commissioners have for me directly in regards to certain technical aspects of the risk to his property in terms of the approach used for streambank stabilization and the discussions with the other--with Mr. Klietz and other agencies representatives through the course of the permitting process. This is really the last step; we're just waiting to get approval to install this streambank protection and protect Mr. Weinmann's property and prevent any additional erosion and sedimentation load to Lolo Creek, which would be obviously detrimental to the creek itself.

Chair Jean Curtiss: One of the things that was pointed out to us this morning was that there is really--or really three permits from DNRC; the 310 Conservation District, the Navigable Stream, and the Floodplain. Were you able to get that last piece done this morning?

Russ Anderson: Mr. Klietz could address this more directly than I can. I'm not completely sure this last floodplain permit is not necessarily clearly articulated in the joint application. We've gone through DNRC for the first two. The latter is sort of in conjunction with Mr. Klietz's decision and we just received comments from DNRC at the end of last week and those were responded to this morning and they were received favorably by, I know for certain, by Mr. Schock of the DNRC. I do not know what Mr. Klietz's opinion is.

Chair Jean Curtiss: Okay, Todd would you like to address that floodplain first part?

Todd Klietz: Sure, one of the criteria that the County Commissioners have to consider before issuing a variance is that the project has been approved by the DNRC prior to your action. That approval is not only based on DNRC's rules and regulations, but also Missoula County's. So this morning, there is some information that DNRC was lacking from a technical perspective that Mr. Weinmann's consultant, Russ, was able to provide to DNRC locally. Those--as Russ indicated, those comments were received favorably. It's now in the--basically, in the hands of the Helena DNRC Administration Office as to whether or not they will issue approval of the variance request.

Chair Jean Curtiss: So I don't remember seeing in your comments in your denial letter, anything about that piece of information being missing.

Todd Klietz: The request that the DNRC had? The--Mr. Weinmann has been working steadfastly at this project ever since spring runoff. When Mr. Weinmann made his floodplain permit application, we processed that as quickly as we could before we actually even got comments back from DNRC with--as soon as the public comment period had closed, so that the DNRC's comments were actually based, that we just received last week, were, if we would have waited until last week to issue the--for me to issue the local floodplain permit decision, we would be starting from--well, from basically from today with denying the floodplain permit today and then putting this off several more weeks and then down the road.

Chair Jean Curtiss: Do we have that letter from DNRC in our information?

Todd Klietz: It was done electronically through email.

Russ Anderson: We have a copy of that electronic in a hard format if you would like to review that.

Chair Jean Curtiss: Okay, I think you did forward that one to us. So I guess the thing that would be helpful is there some questions that came up in what Todd was considering that would be under the appeal or under the variance. One, that he didn't have any information on was the cost of the project, "b" in our criteria, "The cost of the project would not exceed 75% of the cost of relocating the structures to be protected and the cost of the project accumulative over 20 years." I don't know if there's any way to come up with those numbers.

Todd Kliez: I think that's primarily to look at the infrastructure that Mr. Weinmann is at this point I believe is requesting to protect is essentially, as far as infrastructure goes, would be his in-ground heat recovery system. I think he could provide an estimate of what the cost for installation of that was and whether or not the cost of this project would be 75% of relocating that to a different portion of his property. That's how it could be addressed.

Chair Jean Curtiss: Okay.

Commissioner Bill Carey: I wonder if--do we have an approval at this stage from DNRC?

Todd Kliez: No, we do not.

Chair Jean Curtiss: I just thought that it would be good to go forward with the hearing, however, even if we have to wait because people are here to make comment.

Russ Anderson: Can we maybe read the email from Mr. Schock and his response because it does indicate that from his perspective, the technical questions that he had been addressed to his satisfaction and that it's a matter of getting that communication to the Helena office and then receiving their feedback.

Chair Jean Curtiss: Okay, so this is an email from Larry Schock from DNRC in the Missoula office dated today, to Todd, copied to others. "Hi Todd. My comments are only indicating from a technical aspect of the proposed project, it appears to be reasonably designed and appears to meet the technical requirements of Missoula County Floodplain Regulations. DNRC variance approval issue is a legal one, therefore, it will have to be addressed by Tracy Sears, I guess, with the input of our legal staff in Helena. Didn't this variance issue come up once before? I think it did, but I can't recall the case. If we can remember which one it was, we may be able to follow that example."

[2:02:06 PM](#) Chair Jean Curtiss

[2:02:27 PM](#) Staff comment, Todd Kliez

[2:02:52 PM](#) Questions from Commission

[2:03:16 PM](#) Russ Anderson

[2:04:40 PM](#) Questions from Commission and Roger Weinmann

[2:09:08 PM](#) Questions from Commission, James McCubbin, and Todd Kliez

Executive Session

[2:10:27 PM](#) Commissioner Bill Carey made a motion that the Board of County Commissioners **deny** the appeal of a floodplain permit for Roger Weinmann to place riprap on Lolo Creek based on the fact that the structure to be protected was not constructed before February 23, 2000. [2:10:42 PM](#) Discussion. [2:11:04 PM](#) Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

[2:11:08 PM](#) Consideration of variance request discussion

[2:11:19 PM](#) Variance criteria discussion

[2:15:42 PM](#) Russ Anderson

[2:16:33 PM](#) Roger Weinmann

[2:19:34 PM](#) Michele Landquist

[2:21:41 PM](#) Russ Anderson

[2:25:27 PM](#) Continuation of variance criteria discussion  
[2:26:40 PM](#) Staff comment, James McCubbin  
[2:27:18 PM](#) Staff comment, Todd Klietz  
[2:27:53 PM](#) Russ Anderson  
[2:29:56 PM](#) Roger Weinmann  
[2:30:44 PM](#) Continuation of variance criteria discussion  
[2:31:02 PM](#) Roger Weinmann and Chair Jean Curtiss  
[2:32:37 PM](#) Continuation of variance criteria discussion  
[2:33:55 PM](#) Staff comment, Todd Klietz  
[2:34:21 PM](#) Russ Anderson  
[2:35:04 PM](#) Leslie Wustrack  
[2:36:34 PM](#) Staff comment, James McCubbin and continued discussion  
[2:39:31 PM](#) Staff comment, Todd Klietz and continued discussion  
[2:39:56 PM](#) Russ Anderson  
[2:40:59 PM](#) Chair Jean Curtiss, Roger Weinmann, and James McCubbin  
[2:42:42 PM](#) Staff comment, Todd Klietz  
[2:42:58 PM](#) Staff comment, James McCubbin, suggestion of hearing continuation

[2:44:27 PM](#) Commissioner Bill Carey made a motion that the Board of County Commissioners continue the Appeal of Floodplain Permit Denial hearing to January 7, 2009. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

[2:44:39 PM](#) DNRC review discussion

## 7. **CONSIDERATION**

- a. Agreement with Forest Service for Right-of-Way on Spring Hill Drive and Circle View Drive  
[2:46:20 PM](#) Chair Jean Curtiss opened the consideration  
[2:46:36 PM](#) James McCubbin presented the [staff report](#).  
[2:50:35 PM](#) Questions from Commission  
[2:52:51 PM](#) Public Comment  
[2:52:57 PM](#) Emily Corsi  
[2:55:31 PM](#) David Hunter  
[3:00:21 PM](#) Questions from Commission  
[3:02:37 PM](#) Executive Session, Commissioners agree that staff should proceed with negotiation of agreement with the Forest Service for the County to accept responsibility for the portions of Spring Hill Drive and Circle View Drive adopted by Resolution 2002-008 which cross Forest Service land in Section 26.  
[3:02:58 PM](#) David Hunter  
[3:03:03 PM](#) Chair Jean Curtiss, inclusion of Summerville Lane if in Section 26.  
[3:03:11 PM](#) Emily Corsi  
[3:03:35 PM](#) Staff comment, James McCubbin

## 8. **[3:04:13 PM](#) OTHER BUSINESS**

## 9. **[3:04:17 PM](#) RECESS**

There being no further business to come before the Board of County Commissioners, the meeting was recessed at 3:04.

## **[3:07:59 PM](#) Swearing In Ceremony**