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PUBLIC MEETING
BOARD OF COUNTY COMMISSIONERS
WEDNESDAY, OCTOBER 22, 2008 – 1:30 P.M.
ROOM 374 – HISTORIC COURTHOUSE
MINUTES

1. CALL TO ORDER

1:30:32 PM Chair Jean Curtiss called the meeting to order at 1:30 p.m.

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

Staff Present: Chief Administrative Officer Dale Bickell, Office of Planning & Grants Senior Planner Mary McCrea, Office of Planning and Grants Planner Jennie Dixon, Deputy County Attorney James McCubbin, Public Works Director Greg Robertson, Office of Planning and Grants Planner Michele Reinhart, Assistant Chief Deputy Clerk & Recorder Kim Cox, Chief Financial Officer Andrew Czorny, Health Department Finance Director Kim Mansch, and Assistant Public Works Director Chuck Wright.

2. 1:30:37 PM PLEDGE OF ALLEGIANCE

3. 1:30:58 PM PUBLIC COMMENT

4. ROUTINE ADMINISTRATIVE ACTIONS

a. 1:31:12 PM Weekly Claims Lists for One Week (\$442,557.92)

Commissioner Larry Anderson made a motion that the Board of County Commissioners approve the weekly claims list in the amount of \$442,557.92. Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

5. HEARINGS (Certificates of Survey)

a. Stevenson Family Transfer

1:31:52 PM Chair Jean Curtiss opened the hearing.

1:32:37 PM James McCubbin presented the staff report.

1:34:46 PM James McCubbin questioned the applicant, Charles Stevenson

1:38:09 PM Public Comment

1:38:20 PM Executive Session

1:38:26 PM Commissioner Larry Anderson made a motion that the Board of County Commissioners approve the request by Charles and Elizabeth Stevenson to create one 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 Bill Carey seconded the motion. The motion carried on a vote of 3-0.

b. Johnson (Jeff) Family Transfer

1:39:00 PM Chair Jean Curtiss opened the hearing.

1:39:17 PM James McCubbin presented the staff report.

1:41:11 PM James McCubbin questioned the applicant, Jeff Johnson

1:43:57 PM Public Comment

[1:44:06 PM](#) Executive Session

[1:44:08 PM](#) Commissioner Bill Carey made a motion that the Board of County Commissioners approve the request by Jeff and Patricia Johnson to create one 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.

6. HEARINGS

- a. Petition to Partially Relocate and Partially Abandon Portions of a County Road Right-of-Way along Lower Petty Creek

[1:44:37 PM](#) Chair Jean Curtiss opened the hearing.

[1:44:52 PM](#) Charles Wright did not present the [staff report](#), but left it to Peter Dayton to explain.

[1:45:25 PM](#) Peter Dayton presentation ([PowerPoint](#)).

[1:59:51 PM](#) Executive Session

[2:01:17 PM](#) Staff comment, James McCubbin

[2:03:24 PM](#) Dale Rousch

[2:04:29 PM](#) James McCubbin, suggests conditional approval upon receipt of the signature of Dale Rousch's wife

[2:04:56 PM](#) Staff comment, Greg Robertson

[2:05:58 PM](#) Staff comment, James McCubbin

[2:06:40 PM](#) Peter Dayton

[2:07:31 PM](#) David Hill

[2:08:00 PM](#) Peter Dayton and David Hill

[2:09:55 PM](#) Staff comment, James McCubbin

[2:12:03 PM](#) Perry Watts

[2:12:23 PM](#) Peter Dayton

[2:13:01 PM](#) Staff comment, James McCubbin

[2:13:09 PM](#) Public Comment and Explanation of Process

[2:14:10 PM](#) Dale Rousch

[2:14:45 PM](#) David Hill

[2:15:02 PM](#) Staff comment, James McCubbin

[2:15:15 PM](#) David Hill and James McCubbin, Mr. Hill rescinded signature of approval until more information provided

[2:15:58 PM](#) Staff comment, Greg Robertson

[2:16:07 PM](#) Perry Watts

[2:17:15 PM](#) Chair Jean Curtiss, decision recessed until Thursday, November 6, hearing for the site visit on October 28, at 11:00 a.m., meet at the fishing.

[2:19:36 PM](#) Peter Dayton

[2:20:22 PM](#) Staff comment, Greg Robertson

- b. Petition to Annex Property into Clinton Rural Fire District (Beavertail Area, Cramer Creek and Gillespie Creek Residents, including Cramer Creek School) - Clinton, MT

[2:20:50 PM](#) Chair Jean Curtiss opened the hearing. [Staff report](#)

[2:21:16 PM](#) Dan Tucker, Clinton Rural fire district

[2:21:50 PM](#) Kim Cox, Clerk & Recorder's Office, verified the signatures

[2:22:10 PM](#) Public Comment

[2:22:25 PM](#) Executive Session

[2:23:07 PM](#) Commissioner Bill Carey made a motion that the Board of County Commissioners accept the petition to annex numerous parcels of land located in Missoula County into the Clinton Rural Fire District as presented in the staff report. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

7. HEARING

- a. Sale of Series 2008 Limited Tax General Obligation Bonds to Finance a Portion of the Purchase of Partnership Health Center Facilities
[2:23:31 PM](#) Chair Jean Curtiss opened the hearing.
[2:23:54 PM](#) Dale Bickell presented the [staff report](#).
[2:26:05 PM](#) Staff comment, Andrew Czorny
[2:28:09 PM](#) Staff comment, Kim Mansch
[2:30:18 PM](#) Questions from Commission
[2:30:33 PM](#) Staff comment, Kim Mansch
[2:32:01 PM](#) Public Comment
[2:32:19 PM](#) Questions from Commission
[2:32:34 PM](#) Staff comment, Kim Mansch
[2:32:51 PM](#) Public Comment
[2:32:54 PM](#) Executive Session
[2:33:05 PM](#) Staff comment, James McCubbin
[2:33:15 PM](#) Commissioner Larry Anderson made a motion that the Board of County Commissioners confirm the Resolution 2008-113 for sale of Series 2008 Limited Tax General Obligation Bonds to finance a portion of the purchase of Partnerships Health Center facilities. Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

8. CONSIDERATION (continued from October 15, 2008)

- a. Sawyer Creek Lots (5 lots on 23.02 acres) - 8 miles north of Seeley Lake off Highway 83
[2:33:37 PM](#) Chair Jean Curtiss opened the consideration.
[2:34:17 PM](#) Michele Reinhart presented a [memo](#) regarding revisions on Sawyer Creek Lots.
[2:37:24 PM](#) Developer's Representative presentation, Emily Corsi, Eli & Associates
[2:37:57 PM](#) Staff comment, Michele Reinhart, Condition #3 and motion clarification
[2:39:24 PM](#) Staff comment, James McCubbin, motion clarification
[2:40:00 PM](#) Condition #3 clarification on memo
[2:41:10 PM](#) Staff comment, James McCubbin, motion explanation
[2:41:34 PM](#) Discussion
[2:41:54 PM](#) Staff comment, Michele Reinhart, motion clarification
Executive Session
[2:42:08 PM](#) Commissioner Larry Anderson made a motion that the Board of County Commissioners approve the amended variance requests on Pages 3 and 4 of October 17, 2008 memo from Michele Reinhart and as amended today. Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

[2:42:49 PM](#) Commissioner Larry Anderson made a motion that the Board of County Commissioners approve the Sawyer Creek Lots Subdivision based on the findings of fact set forth in the staff report, modified by the memo dated October 17, 2008 from Michele Reinhart and based on the testimony received during the public meeting. Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

9. HEARING (continued from October 1, 2008)

- a. Trout Meadows River Ranch (69 lots on 317 acres) - North side of Clark Fork River at the end of Mallard Way

[2:43:26 PM](#) Chair Jean Curtiss opened the hearing.

[2:43:47 PM](#) Jennie Dixon reviewed the hearings held on [September 17, 2008](#) and [October 1, 2008](#) ([Planning Board recommendation](#), [Floodplain Conditions](#)). [2:46:28 PM](#)

Language suggestion, additional condition to Planning Board Attachment #1.

[2:51:03 PM](#) Ron Ewart, Eli and Associates, Developer's Representative presentation, [Memo, Elements of Mapping, Et Al](#); [Proposed Amendments](#) to Planning Board's Recommended Conditions of Approval

[3:07:49 PM](#) Jim Edwards, Developer

[3:12:11 PM](#) Questions from Commission

[3:12:39 PM](#) Staff comment, James McCubbin

[3:15:01 PM](#) Discussion

[3:19:54 PM](#) Developer's Representative comment, Ron Ewart

[3:20:30 PM](#) Discussion

[3:22:30 PM](#) Developer's comments, Jim Edwards

[3:23:16 PM](#) Developer's Representative and Developer's comments

[3:24:49 PM](#) Questions from Commission

[3:27:18 PM](#) Staff comments, Mary McCrea

[3:30:16 PM](#) Public Comment

[3:30:30 PM](#) Carol Kinney

[3:36:24 PM](#) Staff comment, Greg Robertson

[3:38:09 PM](#) Paul Hubbard, CFAC

[3:43:10 PM](#) Jim Edwards

[3:45:12 PM](#) Staff comment, James McCubbin

[3:48:36 PM](#) Ron Ewart, Developer's representative

[3:50:33 PM](#) Executive Session

VERBATIM TRANSCRIPTION OF MEETING FROM THIS POINT TO END OF HEARING.

[3:52:51 PM](#) Commissioner Larry Anderson made a motion that the Board of County Commissioners delete Condition #13, which reads "Prior to final plat approval of Phase Two, the subdivider shall donate Common Area 2 to a qualified conservation organization (either in fee or grant a conservation easement) for the express purpose of protecting and enhancing the acreage for riparian resources and bird habitat. The applicant shall consult Fish, Wildlife and Parks to develop the specific terms of the grant." Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

[3:53:25 PM](#) Staff comment, Mary McCrea, Condition #25 language suggestion--strike words "as required in Condition #27"; delete Condition #26 and #27; amend Condition #28, "The subdivider shall amend the riparian resource management plan, subject to the review by Fish, Wildlife and Parks, Missoula County Office of Planning and Grants, Rural Initiatives, and County Parks and approval by Missoula

County Office of Planning and Grants and the Commissioners prior to final plat approval of Phase One" and delete the rest of the condition.

[3:55:02 PM](#) Staff comment, James McCubbin

[3:55:14 PM](#) Staff comment, Mary McCrea, strike "Montana Fish, Wildlife and Parks" from Condition #25

[3:55:32 PM](#) Staff comment, Mary McCrea, language suggestion

[3:55:48 PM](#) Staff comment, James McCubbin

[3:56:23 PM](#) Commissioner Bill Carey made a motion that the Board of County Commissioners amend Condition #25 to read, "The subdivider shall map the riparian resource areas on the property, subject to review and approval by OPG, and the final plat shall be revised to label the riparian areas and an appropriate buffer area as an 'Area of Riparian Resource: No Build/No Alteration Zone – see covenants for more information', subject to review and approval by OPG prior to final plat approval of Phase One. A copy of the plat with the mapped Riparian Resource Area and Buffer shall be attached to the covenants and referred to in Section 22 (the Riparian Management Plan)." In addition to delete Condition #26 and Condition #27 and to amend Condition #28 to read, "The subdivider shall amend the riparian resource management plan, subject to review by Fish, Wildlife and Parks, Missoula County Office of Planning and Grants, Rural Initiatives, and County Parks and approval by Missoula County Office of Planning and Grants and Board of County Commissioners prior to final plat approval of Phase One," with the rest of Condition #28 deleted. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

[3:57:30 PM](#) Ron Ewart, Developer's representative

[3:57:43 PM](#) Staff comment, Mary McCrea

[3:59:29 PM](#) Commissioner Bill Carey made a motion that the Board of County Commissioners include Conditions of Approval #22 through 27 from the document entitled, "Floodplain Conditions Recommended for Trout Meadows Ranch," as recommended by Todd Kliez and submitted by Jennie Dixon at the October 1, 2008 public hearing. In addition, revise Condition #27 to include, "except for agricultural structures and agricultural activities on the agricultural parcel" and revise part of Condition #25 to read, "...subject to review and approval by OPG and prior to final plat approval of Phase One." [4:00:07 PM](#) Discussion and language amendments. [4:02:03 PM](#) Commissioner Larry Anderson seconded the motion. [4:02:12 PM](#) Discussion and language amendments. [4:02:44 PM](#) Commissioner Bill Carey accepted the changes in his original motion. Commissioner Larry Anderson second and amendments. [4:03:23 PM](#) The motion carried on a vote of 3-0.

[4:03:34 PM](#) Public Comment

[4:03:39 PM](#) Ron Ewart, Developer's Representative

[4:04:36 PM](#) Jim Edwards

[4:05:36 PM](#) Executive Session

[4:05:56 PM](#) Condition #4 Discussion. [4:08:10 PM](#) Commissioner Bill Carey made a motion that the Board of County Commissioners amend Condition #4 to read, "The plat shall be revised to show a 1' No-Access strip along the Mallard Way lot frontage except for the roads shown on the preliminary plat, subject to review and approval by Public Works prior to final plat approval of Phase One." Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:08:30 PM Commissioner Bill Carey made a motion that the Board of County Commissioners delete Condition #8, which reads, "The subdivider shall install a 5' wide paved pedestrian walkway and minimum 7' wide boulevard along Mallard Way in compliance with Missoula County Subdivision Regulations, subject to review and approval by County Public Works and OPG, prior to final plat approval for Phase Two." 4:08:35 PM Discussion. 4:09:47 PM Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:09:59 PM Condition #9 Discussion. 4:10:10 PM Commissioner Bill Carey made a motion that the Board of County Commissioners approve the Condition #9, which reads, "The subdivider shall install boulevard sidewalk along both sides of all interior roads, in accordance with the cross-section contained in the application packet and shown in Attachment D of this report, subject to review and approval by Public Works prior to final plat approval of each applicable phase." Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:10:14 PM Condition #10 Discussion.

4:12:46 PM Condition #11 discussion. 4:12:59 PM Commissioner Bill Carey made a motion that the Board of County Commissioners approve Conditions #11 and 12, which read, "11. The subdivider shall file a development agreement that states the developer shall provide maintenance of the Common Areas until enough development to support the Homeowners Association has taken place. The development agreement shall be filed prior to final plat approval of Phase One, subject to County Attorney's Office approval. 12. The covenants shall be amended to include the following: 'Fencing along the private pedestrian easements and private access easements shall not exceed 4' in height, and this provision within the covenants may not be changed or deleted without prior governing body approval.'" Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:15:54 PM Commissioner Bill Carey made a motion that the Board of County Commissioners approve Condition 21, which reads, "The plat and the covenants shall be revised to contain a provision that the land may be classified as irrigated and may continue to be assessed even though water delivery is not provided to all lots within this subdivision in compliance with state law, subject to review and approval by the County Attorney's office, prior to final plat approval of each phase. A single entity shall be designated to control the water rights if they are not severed from the property, in accordance with MCA Section 76-3-504(h)." Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:16:17 PM Condition 20 discussion. 4:16:42 PM Commissioner Bill Carey made a motion that the Board of County Commissioners amend Condition 20 to read, "Prior to any disturbance of the site and within three months after notice from the subdivider, the Confederated Salish and Kootenai Tribes of the Flathead Nation, or their agent, shall be permitted to conduct a cultural resources survey and mitigation plan for the property, containing an analysis and any appropriate recommendations. Any site alterations shall conform to the recommendations contained in the survey and mitigation plan, subject to review and approval by the Historic Preservation Officer and OPG prior to final plat approval of Phase One. If historical or cultural artifacts are discovered during ground disturbance as a result

of subdivision development activity, impacts to the area of discovery shall be halted and the Confederated Salish and Kootenai Tribes Preservation Department shall be contacted immediately. The following language shall be added to the Development Covenants prior to final plat approval: The Trout Meadows River Ranch Subdivision is located in an area of significant cultural concern to the Confederated Salish and Kootenai tribes. If historical or cultural artifacts are discovered during ground disturbance as a result of subdivision development activity, impacts to the area of discovery shall be halted and the Confederated Salish and Kootenai Tribes Preservation Department shall be contacted immediately." Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:16:53 PM Commissioner Bill Carey made a motion that the Board of County Commissioners approve Condition #24. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:17:54 PM Condition 29 discussion. 4:26:40 PM Commissioner Larry Anderson made a motion that the Board of County Commissioners amend Condition #29 to read, "The plat and phasing plan shall be revised so that no residential lots overlap with areas within the area of riparian resource or the riparian resource buffer and the portion of the residential lots within the 100 year floodplain shall be designated no-build, no-alteration." Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

4:28:08 PM Condition #30 discussion. 4:28:59 PM Commissioner Bill Carey made a motion that the Board of County Commissioners delete Condition #30. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:29:12 PM Findings and variance discussion.

4:33:49 PM Discussion on agricultural lot and riparian areas.

4:39:04 PM Chair Jean Curtiss made a motion that the Board of County Commissioners' findings should include because there is a lot of agricultural land in Missoula County and this subdivision contributes to that and because there has been historical Ag use on the property and infrastructure to support Ag use, therefore the findings are there that we should go forward with an agricultural lot. Commissioner Bill Carey seconded the motion. Commissioner Larry Anderson amended the motion to include the finding that Community Food and Agricultural Coalition is, through their engagement with the developer, has worked towards a plan whereby a person to manage and produce on this land could possibly be found and the Commissioners want to encourage that type of agricultural activity in this area. The motion carried on a vote of 3-0.

4:40:22 PM Commissioners ask staff address inconsistencies in findings of fact.

4:40:35 PM Ag lot definition and restrictions discussion and language suggestion.

4:42:48 PM Commissioner Bill Carey made a motion that the Board of County Commissioners adopt an additional condition, which would read, "The agricultural lot definition is a plat that is drawn, superimposed over an aerial photograph, and marked in the bottom left as 'Survey Date June 2006'" and 'Plat drawn June 19, 2007 and revised October 20, 2008.' The agricultural lot designated on the proposed plat shall be limited to agricultural use only and language restricting the

use of that lot similar to survey language for agricultural exemptions shall be included on the plat and that language shall be subject to review and approval by the County Attorney's Office and the County Commissioners." Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:42:56 PM Condition language suggestion. Commissioner Bill Carey made a motion that the Board of County Commissioners adopt an additional condition, which would read, "The covenants proposed by the applicant shall be amended to be consistent with the agricultural lot and restrictions on the agricultural lot as well as the riparian resource map and plan prior to Phase One of final plat." Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:46:29 PM Findings on through lot variance discussion, riparian plan, phasing plan discussion.

4:49:31 PM Commissioner Bill Carey made a motion that the Board of County Commissioners adopt the Phasing Plan of Phase One, Lots 1-5, two years; Phase Two, Lots 6-19, six years; Phase Three, Lots 20-55, eight years; Phase Four Lots 56-69, 10 years. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:51:35 PM Commissioner Larry Anderson made a motion that the Board of County Commissioners adopt the finding that the waiver of an RSID would provide for the possibility of creating a walkway along Mallard Way and that would satisfy that requirement at such time as the subdivision becomes built out to the point where a walkway may be needed to accommodate the additional lots and families and pedestrians along Mallard Way. Commissioner Bill Carey seconded the motion. The motion carried on a vote of 3-0.

4:52:29 PM Mitigation of through lots discussion and language suggestion. 4:55:24 PM Commissioner Bill Carey made a motion that the Board of County Commissioners adopt a condition, which would read, "The plat shall be revised to show a one-foot no-access strip along the north property boundary of Lots 3 and 4, adjacent to Bull Trout Way, subject to the review and approval by Public Works prior to final plat approval of Phase One. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:59:23 PM Commissioner Bill Carey made a motion that the Board of County Commissioners amend Attachment A of the Planned Variation, B. Space and Bulk Requirements to read, ""Setbacks are measured at right angles from the edge of the property line or abutting private access/ utility easement." Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

4:59:58 PM Commissioner Bill Carey made a motion that the Board of County Commissioners approve the Trout Meadows River Ranch Planned Variation as shown in the amended staff report Attachment A, based upon the amended findings of fact in the staff report. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

[5:00:33 PM](#) Commissioner Bill Carey made a motion that the Board of County Commissioners approve the request to vary from Section 3.2.3(3) requiring a pedestrian walkway along the perimeter of a subdivision that abuts a public road, based on the amended based on amended findings of fact in the staff report. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

[5:01:08 PM](#) Commissioner Bill Carey made a motion that the Board of County Commissioners request to vary from Section 3.3.1(5) prohibiting through lots be conditionally approved, based on the amended findings of fact in the staff report and subject to the conditions of approval in the staff report and discussed in today's hearing. Commissioner Larry Anderson seconded the motion. [5:01:28 PM](#) Discussion. [5:01:40 PM](#) The motion carried on a vote of 3-0.

[5:01:41 PM](#) Commissioner Bill Carey made a motion that the Board of County Commissioners approve the Trout Meadows River Ranch Subdivision, based on the amended findings of fact in the staff report and subject to the recommended amended conditions of approval in the staff report, as well as the conditions approved at today's hearing. Commissioner Larry Anderson seconded the motion. The motion carried on a vote of 3-0.

10. [5:02:12 PM](#) OTHER BUSINESS

11. [5:02:18 PM](#) RECESS

There being no further business to come before the Board of County Commissioners, the meeting was recessed at 5:02 p.m.