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**PUBLIC MEETING**  
**MISSOULA BOARD OF COUNTY COMMISSIONERS**  
**WEDNESDAY, MAY 6, 2009 – 1:30 P.M.**  
**ROOM 201 – COURTHOUSE ANNEX**  
**MINUTES**

**1. CALL TO ORDER**

[1:30:36 PM](#) Chair Bill Carey called the meeting to order at 1:30 p.m.

Commissioners Present: Chair Bill Carey and Commissioner Michele Landquist. Absent: Commissioner Jean Curtiss.

Staff Present: Deputy County Attorney James McCubbin, Public Works Director Greg Robertson, Office of Planning & Grants Senior Planner Mary McCrea, and Office of Planning & Grants Planner Jennie Dixon.

**2. [1:30:43 PM](#) PLEDGE OF ALLEGIANCE**

**3. [1:31:01 PM](#) PUBLIC COMMENT**

**4. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS**

a. Weekly Claims List - \$654,933.70

[1:31:16 PM](#) Commissioner Michele Landquist made a motion that the Board of County Commissioners approve the weekly claims list in the amount of \$654,933.70. Chair Bill Carey seconded the motion. The motion carried on a vote of 2-0.

b. [1:31:27 PM](#) Public Announcements

**5. HEARINGS (Certificates of Survey)**

a. Troutwine (Marvin) Family Transfer

[1:31:39 PM](#) Chair Bill Carey opened the hearing.

[1:31:51 PM](#) James McCubbin presented the [staff report](#).

[1:32:51 PM](#) James McCubbin questioned the applicant, Marvin & Olga Troutwine,

[1:33:25 PM](#) Correction to staff report, 80-acres to daughter and retain 40 acres

[1:36:17 PM](#) Questions from Commission

Executive Session

[1:36:24 PM](#) Commissioner Michele Landquist made a motion that the Board of County Commissioners approve the request by Marvin and Olga Troutwine 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. Chair Bill Carey seconded the motion. [1:36:53 PM](#) Public Comment. [1:37:03 PM](#) The motion carried on a vote of 2-0.

b. Martinez (Travis) Family Transfer

[1:37:15 PM](#) Chair Bill Carey opened the hearing.

[1:37:20 PM](#) James McCubbin presented the [staff report](#).

[1:38:26 PM](#) James McCubbin questioned the applicant, Travis Martinez

[1:40:56 PM](#) Questions from Commission

[1:40:59 PM](#) Public Comment

[1:41:04 PM](#) Executive Session

[1:41:07 PM](#) Commissioner Michele Landquist made a motion that the Board of County Commissioners approve the request by Travis Martinez 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. Chair Bill Carey seconded the motion. The motion carried on a vote of 2-0.

## 6. CONSIDERATION

a. Green Bench Gardens (2 lots on 2 acres) - South Avenue West ([verbatim transcription](#))

[1:41:30 PM](#) Chair Bill Carey opened the hearing.

[1:41:39 PM](#) Jennie Dixon presented the [staff report](#) ([Revised Condition #17](#), [Revised Condition #18](#), [PowerPoint](#)).

[1:49:31 PM](#) Developer's representative presentation, Paul Forsting, Territorial-Landworks, Inc.

[1:50:25 PM](#) Fred Stewart

On the east side of this proposed subdivision. My wife and I have lived since the 60s and prior to that time it was owned raised and vegetables with a company named Green Bench Garden. Providing agricultural food for the Missoula Valley area. And this would have been five years ago whether or not we would be able to purchase the property. We were concluded that with three lots right here, that we would be able to locate maintain the open space locate these lots in such a way that it minimizes where the house and outbuildings to try to maintain as much agricultural land because that's where the existing road one question would be preserving the soils and also we wanted to maintain, we're not developers and our objective has been to maintain give us a site plan lots of trees and shrubs I've been doing research on this varieties of fruit trees, so that's our intention and this is what we're about like to invite you to try and preserve as much so when we originally went through the plat for this area not be able to have access since part of the road goes over then that would allow access for these parcels. My driveway to my home and my home is right here. The difference between is approximately a thousand to that's going to be and this has been a long-term discussion between and the engineers have not always gone along with well, it's productive dirt and you can grow a lot of raspberries and you can grow invitation to you allow me to have a 14-foot road, which I know let me have a 14-foot agricultural prime land and not change my access. We've already not asking you to change any of that the amount of asphalt hate to complicate things and I can't person who's building on this lot needs to have power until this is finalized, but it has been on my mind because of the long-term thank you for

[1:56:53 PM](#) Questions from Commission

Chair Bill Carey: We talked about this and told variance request, there has to be an application.

Fred Stewart: and so I decided rather than following the paperwork make an invitation to you

Chair Bill Carey: Tell me we could not charge the fee in this particular case in allowing the variance preserving not guaranteeing, but apparently but if timing in your view

Fred Stewart: And the comment about the fee.

Chair Bill Carey: Again, there's no guarantee

Fred Stewart: Sure.

Chair Bill Carey: But that would take time, at last and that's an expedited

Fred Stewart: And I'm assuming until that

Chair Bill Carey: Correct

[1:59:06 PM](#) Jennie Dixon: I believed you may have received a variance request of what would constitute an application, which is what call this their application and along with that revised findings of fact and conclusions of law, so if you are desiring to do this and this is going to be ,but this is, simply, does that not and then turn it into me. It seems a roundabout way for your consideration.

[2:00:39 PM](#) Mary McCrea: Mary McCrea what we would first and whether this documentation addresses in Article 6 and usually a request a variance pay the fee and planning staff

Chair Bill Carey:

[2:01:25 PM](#) James McCubbin: Where we are we have a brief section as thoroughly are only request or application does need to be in writing shall submit the subdivision regulations and address need a written application from the subdivider prepared by staff, but if they incorporate does need to be a written application five minute recess and then find out from them whether plan to submit a variance application and requesting a fee waiver and then you could consider whether you're going to waive those fees that you not try and make a decision absent that on the application that's why in Planning Status, I mentioned that this one could be found not to substantively change could be processed without requiring, so first step would be to request a variance, plans, fee waiver, then also address whether you believe, the proposed variance in terms of the width of essence of the subdivision and the real key is whether it might and the public's testimony that you think is going to interest the public enough timeline and just to allow staff to review it and

Chair Bill Carey: Thank you.

Commissioner Michele Landquist: You lost me halfway there, but I'm glad about looking at whether or not it's a major change and does it change the nature of the project. I think at that juncture by contacting rural fire, Public Works, and the Health Department even I was under the impression reviewing this and approving it based on the conditions that it wasn't a major change. And just as Mr. Stewart's inviting us to

embrace this project and waive the variance and road stuff, I guess if there's no other way then I'm inviting him to request and adding undue expense so minor here, that all this does is and gets passed on make your small fortune. He wants to be able to offer and enjoy everything he enjoys. I'd like to find a way to make it work

James McCubbin: What was discussed on Monday, it would have been a very big push, we have to have a written application under our current until May 20 to make a decision on this. Without any kind of extension request if you want to do that. If he does an additional ten days it is an amendment to the application. Note for the record if we get them anytime almost always require that we do go back to square one, it seems pretty unique this kind of variance in support of some of our review criteria. If you find that it doesn't change the essence. I don't think we could do any better

2:09:29 PM Jennie Dixon: I would just note 18 to 14 would also then from a 30-foot right-of-way easement to a 24-foot right-of-way easement. What I have is everything May 13, May 27, May 20. I think what

James McCubbin: Because you're assuming is what Ms. Dixon first before we can process it. But we can't make a decision on it and that's a matter of public

Jennie Dixon: Include agency comment indicated may need to seek agency comment beyond what we have currently is an application which is what I have is an application .

Commissioner Michele Landquist: So if we were going to give a few minutes, would that be for the purpose

Jennie Dixon: writing up a piece of paper and gives

Commissioner Michele Landquist: And then where does it go through the channels about getting the verbal via electronic email, who you talk to and what they were agreeing to for approval and this is a public record. Why for something so simple, what takes a couple

James McCubbin: It would be preferable if the best who said what, what they said. The reason what the application in place what would the fee be, how complicated issue for the applicant try to push something that we don't anticipate. That we have a complete than to try and rush it. Now I'm not extremely low, we don't want to set a developer up to have an approval challenged a few days extra to make sure . I empathize.

Jennie Dixon:

Chair Bill Carey: Ms. McCrea

Mary McCrea: Mary McCrea. I just want to clarify trying to get this Planning Status expecting to have a written request I think Jennie's does the work. Typically, we'd require the fee as well. The reason. This case, I think, to get this ready has been very quick and has addressed the issue that the changes could not be material the agreement was for the variance request, so we still don't have that to move that

Chair Bill Carey: Do you know

Jennie Dixon: 500

Chair Bill Carey: It looks like the developer

[2:17:08 PM](#) Public Comment

[2:17:13 PM](#) Peggy Morrison, President, Target Range Homeowners' Association

Chair Bill Carey: Ag preservation wonderful steward for the land road or driveway let's recess until 2:30

[2:30:12 PM](#) Chair Bill Carey

[2:30:15 PM](#) Fred Stewart: Has led to so much discussion learned a lot over, but we've started and stopped, every time it's a couple of months. I would like to-- this is my proposal and if it's not accepted. My proposal is that I be allowed to sign the document that my consultants have seen sign that document and that becomes then I would--and I would--my way or the highway in order for to Brian who owns the lot I've gotten money from him, so I because of my commitment to him waiver of the fee and if it could be acted on today. If that's not possible I realize that you may not be, but if you could do those things, but I really do need more

Chair Bill Carey: Thank you. You know, I don't think we can act today. It just doesn't give staff enough treat one subdivision proposal that will come along. About the integrity

James McCubbin: Prepared to submit, until next week,

Greg Robertson:

Fred Stewart: Not to do anything 2A and 2B prior to the time

Greg Robertson: But isn't Lot 1

James McCubbin: But if he runs

Greg Robertson: How does

Fred Stewart: It has no access, down along

Greg Robertson: So is there currently an easement

Fred Stewart:

Greg Robertson: I don't

Fred Stewart: Based upon what I was told

Greg Robertson: But that is a current provides access to the lot

Chair Bill Carey: Someone at the county told

Paul Forsting:

Chair Bill Carey: Okay. Mary McCrea would you please come up. I just want to make sure are we talking about two or three weeks of

Mary McCrea: Well, I think Jennie has haven't reviewed her documents in the next week. She says she has written documentation giving already has

Chair Bill Carey: Well, the applicant has told going to move forward and he's nodding that's correct. We need to go ahead and deal with the.

[2:38:02 PM](#) Public Comment

[2:38:08 PM](#) Executive Session

[2:38:21 PM](#) Commissioner Michele Landquist made a motion that the Board of County Commissioners amend Condition of Approval #4. [2:39:57 PM](#) Jennie Dixon language suggestion. Chair Bill Carey seconded the motion. The motion carried on a vote of 2-0.

[2:41:15 PM](#) Commissioner Michele Landquist made a motion that the Board of County Commissioners amend Condition #17 to read as proposed in the May 1, 2009 memo from Jennie Dixon, along with the proposed findings of fact and conclusions of law). [2:41:27 PM](#) Chair Bill Carey seconded the motion. The motion carried on a vote of 2-0.

[2:41:32 PM](#) Commissioner Michele Landquist made a motion that the Board of County Commissioners amend Condition #18 to read as proposed in the May 5, 2009 memo from Jennie Dixon, along with the proposed findings of fact and conclusions of law). Chair Bill Carey seconded the motion. The motion carried on a vote of 2-0. and findings of fact 13.

James McCubbin: To clarify and you may have said this adopted the revised findings.

Chair Bill Carey: Yes.

[2:41:50 PM](#) made a motion that the Board of County Commissioners approve . seconded the motion. The motion carried on a vote of 3-0.

[2:42:43 PM](#) Commissioner Michele Landquist made a motion that the Board of County Commissioners approve Green Bench Gardens Subdivision based on the amended findings of fact and subject to the amended conditions of approval in the staff report. Chair Bill Carey seconded the motion. The motion carried on a vote of 2-0.

7. [2:43:20 PM](#) **OTHER BUSINESS**

8. **RECESS**

[2:43:22 PM](#) There being no further business to come before the Board of County Commissioners, the meeting was recessed at 2:43 p.m.