P U B L I C M E E T I N G

MISSOULA BOARD OF COUNTY COMMISSIONERS

WEDNESDAY, DECEMBER 1, 2010 – 1:30 P.M.

ROOM 201 – COURTHOUSE ANNEX

M I N U T E S

1. CALL TO ORDER

Chair Landquist called the meeting to order at 1:30pm

Commissioners Present: Commissioner (Chair) Michele Landquist, Commissioner Jean Curtiss, Commissioner Bill Carey

Staff Present: James McCubbin, Deputy County Attorney, Greg Robertson, Director of Public Works, Steve Smith, Public Works, Tony Hollaway, Public Works

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

Phyllis Jamison: I would like to make a comment that may be of interest to any resident in Missoula County that may have participated in an abandonment proceeding or may be considering one. The preprinted petition forms that Missoula County passes out do not meet the requirements of the law. I won't go into detail here but the statues are pretty clear but they violate Montana Code Annotated 7-14-2601. In one respect this form leaves off the required list of dissenters off of the petition form for an abandonment of a road. So anyone who is signing the petition form does not have an accurate view of what's going on and they can't contact or are not aware that there may be dissenters, it's a requirement of the law. Also in addition to the form being false and not complete and not compiling with the law, Missoula County does not require that people who fill out a form pass in and submit a petition that they don't require be even that be done correctly. It can be approved by the County even though the interested parties are left off of the form that is a requirement of the law. It says the names and addresses of the land owners affected by the abandonment must be listed. And you have to have a list of the name of the land owners who consent to the abandonment and those who do not consent. I'm reading this from your own papers here, this is Missoula County's submission on your procedures for abandoning roads, exhibit J6. Further Missoula County does not follow the legal requirements necessarily of processing a petition for abandonment. One of the legal requirements is that the county surveyor be present on the site viewing meeting. Ms Jamison asked if Steve Nyday is now the County Surveyor, Commissioner Curtiss stated he is not. Ms Jamison said Chair Landquist told her he was, Chair Landquist stated that Ms Jamison asked who was in charge of the department and wanted specific titles. Steve Smith, registered plan l and surveyor in the State of Montana. Ms Jamison asked Mr Smith for his exact title – Assistant Public Works Director, examining Land Surveyor. Ms Jamison asked who the county surveyor is; Commissioner Curtiss replied that the elected county surveyor is Vickie Zeier but she delegates her authority to the public works dept where we have registered land surveyor such as Steve, we have several land surveyors. Ms Jamison understood this stopped being an elected position, the County Surveyor. She asked wasn't Charles Wright appointed to Assistant Director of Public Works rather than running for County Surveyor? The residents of Missoula County may be interested to know that there may not be very many legally filed abandonment forms in the courthouse today. They should check their petitions, if they use the preprinted form or use that as a guide, likely it is not legal because it, for one thing, does not include the required list of dissenters.

4. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS

a. Weekly Claims List - $1,206,093.92
Commissioner Curtiss made a motion that the Board of County Commissioners approves the weekly claims list in the amount of $1,206,093.92. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

b. Chair Landquist wanted to add that now winter is here and things are getting cold, the 316 Mission is looking for contributions to their clothing boutique. They have a day center where they sell used furnishing to raise money for their mission but they also have a day center that they make available for people that are needy and homeless located on Toole Avenue, that is also where they would like some donations dropped off in the way of some warm coats and boats and things like that to help the people in need during this cold stretch. So if anyone out there can help, it would be nice to give some people a hand.

5. BID AWARD (Larchmont Golf Course)

a. Irrigation Project – Pumps
Parties Present: Bill Galiher, Dan Smith, Scott Reagan
Proposed Bids: Franz Witte, Boise ID for $243,737.00
Rexius, Eugene, OR for $265,000.00
Bid Documentation
Mr. Galiher asked the Commissioner to accept the bid from Franz Witte

Executive Session

Commissioner Carey made a motion that the Board of County Commissioners rewards the bid to Franz Witte in the amount of $243,737.00. Commissioner Curtis seconded the motion. The motion carried on a vote of 3-0.

6. DECISION (from November 10, 2010 Hearing)

Petition to Abandon a Portion of Fourth Street from Mullan Road to Alley between Block 3, Lot 7 and Block 4, Lot 1 – East Clinton Addition

Steve Smith read the viewers report.

Public Comment

Phyllis Jamison: I'm not clear, are you saying you want to abandon part of…I don't understand what you want to abandon. You're not recommending abandoning something; I'm trying to follow what's going on here.

Chair Landquist: "The recommendation was to abandon the whole road and after viewing the site, the portion that's pretty much being used right now, which is the more Southerly, Chair Landquist asked if she has her directions correct. Steve Smith is showing them the map that was submitted with the petition, enlarged. He explains what they are requesting is the South half of the road right-a-way to be abandoned, leaving still as a public right-a-way the North half. So you have a 60 foot right-a-way; 30 feet recommended to be abandoned, the North 30 feet still remaining as public right-a-way.

Ms Jamison: First of all that's not realistic even if that were the case, that's' a 60 foot wide road there that's free and clear. Yes, there may be grass growing on it, there's also encroachments on it. What did you recommend about the encroaching tent?

Chair Landquist: "It wouldn't be an encroachment with it being abandoned."

Ms Jamison: "I'm opposed to it. You mention that the alleys not improved at all that there's weed and debris and it prevents passage so that turns it into a dead-end alley as far as fire vehicle prevention access.

Chair Landquist: "They can get out the one way but they can not get out the other way because of the cliff, it's a dead end."

Ms Jamison: "Concerned that this needs to go through a whole total separate new procedure. It needs to have a current survey map. That tent that's encroaching now is that what you are saying is existed on that property in 2001 when this was drawn."

Commissioners said "no, they are not saying that".

Ms Jamison: "That's what they said last time."

Chair Landquist: "This is a time for comments not interrogation. Feel free to make your comments and they will do their best to address what they think they need to do, they're doing their do diligence here."

Ms. Jamison: "This is a public hearing and I was asked questions during the other public hearing and rearranged my agenda, whole comments to fit their schedule and how I could come back and took one minute do my notes and rearrange my notes, you opened up a road microphone and let them have at so I couldn't even review her notes. And I was told so that I could rearrange and fit into the schedule and how I could come back and make comment at another time. My comment includes questions just like Deputy Attorney James McCubbin asked me questions."

Commissioner Curtiss: "Ms Jamison, I think what you don't understand is that this map shows something that was on there in 2001, that's what they are talking about now. What they are saying is that if the area that Mr Smith is pink if we abandon that even though that drawing may not be exactly where the tent type structure that is there now sits, it would still be within that 30 feet so it doesn't matter exactly where it fits, if we choose to abandon it, its not an issue anymore. So, I guess what your comment should be is whether or not leaving that 30 foot right-a-way that connects to the 20 foot right-a-way in the alley still gives public access to your property, which it does."

Ms Jamison: "No that's not all I'm concerned about; I'm concerned about emergency vehicle access and fire suppression access and that's not adequate.

Commissioner Curtiss: "They only require 20 feet of access in all of our subdivision rules. Ms Jamison; when they get to the end of that where do they go? They have to have it all drivable weather conditions and that he just has stated is not, it's Lake Clinton down at the other end of the alley because the garbage trucks run back and forth on it. All of the fire trucks say they need to be within 150 feet because they have that much hose."

Ms Jamison: "Well I'm just saying what Pat Clinch, the Deputy Fire Marshall told me, the Deputy State Fire Marshall told me, it needs to be all weather conditions drivable and that's not, the alleys not, it isn't now."

Ms Jamison agreed. But, first of all I have filed a petition for rehearing, I'm hopefully there will be a positive result but if there isn't, there will be no…due to an unintentional mix up there's going to be no access to her property what-so-ever from the other direction, none…coming in through this way, zero, zilch as it stand now unless she is successful in getting it over turned, none. The only access as it stands now is coming in off 4th Street. Now, you said these alley dead ends into debris and a cliff, just like the back of my house dead ends into a cliff and the side of my house dead ends into a

cliff and a gully. The only access to my house is this way…. (Looking at map) where I can bring in groceries has a steep hillside, Clinton is built on layers. Steep hillside coming down this way (looking at map) I has access this way for walking, for driving, for going places but not for unloading groceries or other things. I cannot go down that hillside even in the summertime going up and down carrying stuff, let alone its way too steep for winter (I have pictures of that).

Chair Landquist: Ms Jamison, explain if you have on the 4th Street portion drivable, walkable access.

Ms Jamison: "I'm coming to that but I need to finish my thought. I'm establishing that I have no emergency vehicle access coming thorough, they could put a fence across that road, and they can do whatever they want to, legally now as we speak if it's not over turned. I have filed that…I'm trying. No access there of any kind, emergency or whatever, they can put a concrete fence across there if they want to. So that's out. This is the only way then for fire suppression access, let's talk about that for a minute. They can't go this way (looking at map) it's a drop off, they're not going to drive into a dead end and they can't go this way because it's not all weather conditions drivable. It's 20 feet wide, it has to be a minimum of 20 feet wide, it's got that, pretty close to it, I actually haven't measured it but it probably does. This is Lake Clinton here – we had to walk around it and it was very deep and in the spring time it gets much worse. There could be a pile of nails under there. The fire truck can't drive through on the way to a fire. They won't go through something like that and nobody would ask them to. These people should be concerned, everybody on the…well that's another issue but…so they can't drive down here because of the…and the garbage trucks comes back up and gauge that all the time. Okay. The county does not maintain alleys. So, this is a dead-end, that's not all weather drivable where they gonna go."

Commissioner Curtiss: "Where they gonna go now?"

Ms Jamison: Laughs and says good point. "That's why I got a law suit going because I don't have access like all my neighbors do. This is a 60 foot, yes she's got grass on it but those fire trucks can drive on it in an emergency."

Chair Landquist: "And they will."

Ms Jamison: "And they will and they will help her but they sure won't go over here."

Chair Landquist: "In and emergency I'm pretty confident they will do what they need to do to get the job done, ma'am."

Ms. Jamison: "I'll take the word of Deputy State Fire Marshall, Pat Clinch."

Chair Landquist: "Okay, would you like to make some…"

Ms Jamison: "Another thing I want to clarify here and I asked it be put in the report, it wasn't. Is that I was asked by McCubbin here last time did I have garbage service before my fence was up and I needed to clarify, the fence was the first thing I put in before I even painted the inside of my house. I didn't have garbage service before the fence was up because the fence was the first thing I did for a number of reasons. So, I'm opposed to that. Not only that – this is a 60 foot wide street, there's not – this is the only one in Clinton, all of Clinton that's 60 foot wide. All of these people should be concerned about their fire suppression access coming in from this way in case the fire trucks needed to come back in that way. But, in any case, for that reason alone but also for the fact as I said last time, this is a gate here and area for a gate for me to…I couldn't unload groceries or anything else but I could park a vehicle here or something and go out in some kinds of weather, at least I wouldn't have to go up and out that way.

Chair Landquist: I think your – the boundary lines as I understand it - the blue line there is your boundary line that lines up just fine for with what we're planning on leaving as a road. Ms Jamison: "I see a lot of blue lines here, I don't know what you're talking about – the blue line is my boundary line."

Steve Smith: "May I help?"

Chair Landquist: "Mr Smith, could you please assist?"

Steve Smith: "The question that comes about is; there's various colors on this drawing. According to the legend that's over here, we have a fence wire, where my finger is, that's your fence, wire fence that was located by the field crew back in evidentially late 2000, early 2001. And I believe on our observation, Ms Jamison also pointed out, it would be right about here, where my finger is, where there's an opening or a future opening to have access to their property.

Chair Landquist: "Yea, that's the way it lines up…"

Steve Smith: "Hang on a second; just hang on for a second. Can you hold this for a second? What we have here is an aerial photograph, I'm sorry a photograph taken by the petitioners, by the petitioners and presented to our office. What we have here would be East Mullan Road and we're looking this way, so actually it's – the photograph is from here looking back or to the West. So, here's the travel surface and it was a scanned image, sorry for the quality. But, this point right here where my finger is would be this corner of the property and thank goodness there's a little snow because you can see this fence going across the rail and some sort. And then probably right there where my finger is - is a future opening for a gate and that would be approximately right there. So basically in line, most likely in line with the 30 foot right-a-way if the decision is made to just abandon half of it.

Chair Landquist: "Which lines up nicely for Ms...to access Ms Jamison's property in the back there."

Steve Smith: "I call it a straight shot, right in. And then here's the surface as mentioned earlier – this is lawn. Okay?"

Chair Landquist: "Thank you very much, nice job."

Ms Jamison: "Actually that's incorrect. This fence post here is marked – goes over to the corner of my property."

Chair Landquist: "That's what you said"

Ms Jamison: "That's right, to the corner of my property."

Chair Landquist: "Right."

Ms Jamison: "First of all, this is a brand new hearing…here I come again unprepared."

Chair Landquist: "It's not a brand new hearing it's a continuation ma'am. Don't take your frustration out on us; we're doing the best we can."

Ms Jamison: "This is a brand new…set of…situation here, this is instead of abandoning – what this is Yellow, it's now pink. That's different."

Commissioner Curtiss: The law allows us to do a partial abandonment of a proposed abandonment."

Ms. Jamison: "Without any further…"

Commissioner Curtiss: "yes, doesn't let us make it any bigger but we can make it smaller." Ms. Jamison: "Well, that's not right that I'm not prepared, I can not be prepared to respond to this."

Chair Landquist: "Okay."

Commissioner Curtiss: "And that's your house in the background there, right?"

Ms. Jamison: "Yes"

Commissioner Curtiss: "So you can see that the portion that we propose to not abandon or that the viewers have proposed to not abandon is that road and it goes right to your house." Ms. Jamison: "First of all, see there are all kinds of reasons that it's not going to work. These are all encroachments here, all the things that they have here. They have lots more displays and all kinds of stuff in their busy season. In addition to that, they have cars pulling in – they said they have a parking problem. They have cars pulling in every which way and they park every which way. My suggestion was to remove this encroaching fence. Now she claims that this is a Costco tent that was there when this fence…when this was drawn, according to the scale, that's false. This is a building, its mark by blue."

Commissioner Curtiss: "Ms. Jamison, we're not talking about the encroachments today, that's a whole another process, if they ask for that... (Ms Jamison is speaking away from the microphone, I can't understand what is being said)…so all we're talking about is abandoning a portion of the road."

Chair Landquist: "Is there any other public comments, anybody else that would like to make a public comment about this road abandonment?"

Charles Drinville: "I live on...adjacent to Phyllis, down over the hill on Woodville Avenue…well no I'm told it's Montana Avenue but whatever. As you look there it's a reasonable approach what you're doing, very reasonable. Owner of Jamison house there, if you look down that road there that's in the street and that was abandoned by you, by which-a-call-it, which to her liking, which I have no problem with that but and I have no problems with what your doing so, I support you 150% so."

Chair Landquist: "Thank you very much."

James McCubbin: "May I ask Mr. Drinville a couple questions?"

Chair Landquist: "Sure"

James McCubbin: "Mr Drinville, are you familiar with the properties involved that are affected by this proposed abandonment?"

Charles Drinville: "absolutely."

James McCubbin: "How are you familiar?"

Charles Drinville: "I've been out there 40 years."

James McCubbin: "Okay."

Charles Drinville: "I built the house over there adjacent to Phyllis – to the North, right on 3rd and Woodville. I built that house; I bought the two lots right next door there. Verna Bugsby lived there and I sold one to Verna and I kept one, so that gave me four lots and there's where Rich Weekley(?) lives at. My Mom and Dad owned the ones down over the hill where Jack and Dena live at.

James McCubbin: "The Lunds?"

Charles Drinville: "Right."

James McCubbin: "Are you familiar with Phyllis Jamison property?"

Charles Drinville: "Absolutely"

James McCubbin: "How are you familiar with her property?"

Charles Drinville: "I built the fence around it."

James McCubbin: "Okay."

Charles Drinville: "When she first moved in there, I was helping her, I have a tractor with a post pounder and when we moved the fence around there I came back to her piece of property, I said the back of your house is in the street, how do you want to do it? She said, put the fence out in the street, so that's what I did and then she wanted it moved, so…after I put it in she wanted it moved."

James McCubbin: "Can you share with us anything more on your impression on whether the partial abandonment that's discussed in the viewers report will affect access to any properties, I mean including Ms Jamison's because she's expressed concerned, but any other properties - Would it effect anybodies access?"

James McCubbin: "It won't affect any other people's access, the kid Jim down over the hill from her, that's…you come in on 5th Street for that, that's the people that are across 4th Street to the South and there's no access down through there because it's all brush and that. He's got access in through 5th Street. As far as a fire truck, a fire truck can go down that road down there, it's a 30 foot Street they can down there take a right and go back up the alley. They've got 4-wheel drives, they have a 4-wheel drive truck in the Clinton fire department so that's really not an issue and they do like you say, they do have a 150 feet to 200 feet of fire house so that's not an issue neither, in my opinion."

Chair Landquist: "Is there anybody else that would like to make a comment about this road abandonment?"

Debbie Lorenzo: "I just wanted to clarify one thing, at the last hearing she claimed that emergency vehicles could not get down for the person that had the problem when she was taking trees out. It's a matter of public record, they did come down 4th, went right up the alley, that fence was not there when she was taking those trees out and they treated him right there in the alley and went out on 3rd so we already know that they can make it through."

Chair Landquist: "And I think, just also to make the record clear, the comment last time was made that the ambulance couldn't find the place but you told me on site there that in Clinton it's usually the first responders that come and that would be from the fire department or rural fire and then they call and give appropriate directions to ambulance?"

Debbie Lorenzo: "If they need an ambulance, correct. As far as I remember an ambulance didn't come on site, it was the quick response and the fire truck."

Chair Landquist: "Okay, thank you for clearing that up. Is there anyone else that would like to make public comment?"

Ms Jamison: "If 9-1-1 records go back that far it will be on the record and it was the Clinton ambulance, whatever it was they put him in the ambulance and took him off. It will be…I imagine they keep those records, it will be there."

Chair Landquist: "Okay, thank you."

Ms Jamison: "I mentioned the greenhouse thing, going to their credibility. Here this is the credibility in again the issue here, which is my right to bring that up because this is false.

Chair Landquist: "Okay, thank you."

Ms Jamison: "I would like to finish what I was saying, last time she claimed that…I'm gonna catch my breath for just a minute. Totally unprepared as usual for these meetings because I'm not given information, I would of liked to have this report in advance so I could prepare. Going back to the credibility of the Lorenzo's, last time they claimed that Costco tent was on the property when that map was drawn, that's on the record. Actually what's there as I said it was – a building, they denied it was a wood-framed building, that's on the record. We're looking at the credibility here. It was a wood-framed building.

Chair Landquist: "That's why we do site visit though, ma'am. We listen to people's testimony but we do site visits and I don't think this hearing has anything necessarily to do with someone's credibility. Again, you were warned last time at the last hearing; I'd be careful if I were you to not be crossing the line into saying that could get you in trouble for slander.

Ms Jamison: I didn't cross any lines.

Chair Landquist: Just throwing that out there for ya.

Ms Jamison: I have a comment about that. When Missoula County is the one that pits neighbor against neighbor by the negligence of the way you handle your roads, it really isn't appropriate for you to comment to me about how to handle the dispute. When it's basically your issue, your problem, which you've caused. This is a 40 foot by 20 foot building.

James McCubbin: Correction let me just step in…

Ms Jamison: That's an interruption…

James McCubbin: Ms Jamison, why don't you just complete you comments as they are, however the Commissioners are not here to answer your questions. If you have questions that you think they should look into, you can mention that, that's part of your comments. If you think there's a credibility issue that relates to information that's been presented to the Commissioners, you can comment on that but that doesn't necessarily mean your comments are true either. So, in other words, this is your opportunity to present your comments and then the Commissioners will address them with further inquiry if they feel it's necessary but it really isn't a dialog, it's your opportunity to present what you have to present.

Ms Jamison: And that's what I'm trying to do but I keep getting interrupted but I would appreciate it. This is a 40 foot by 20 foot greenhouse, labeled as a greenhouse. If it were a tent it would be labeled as a tent, just as a wood pile is labeled as wood pile, a utility pole is labeled as a utility pole, etc. Further a greenhouse lets light through and a Costco tent doesn't so we're looking at a credibility issue here.

Commissioner Curtiss: We really don't check people's credibility before we take comment, it's not our job.

Ms Jamison: Once they make comment, it's good to have that in mind, for instance, over the ambulance issue. And, as far as the fire suppression access, they aren't going to be able to have it at all; I won't have any at all down here. Another thing here that I object to this is an illegally submitted petition…

Chair Landquist: You covered that.

Ms Jamison: Are you going to interrupt me again in the middle of my sentence?

Chair Landquist: Ma'am, when you've already covered some of the things that…

Ms Jamison: I haven't raised this particular petition up at all. This is the first time I have and you're interrupting me every time I try to speak…and then when I get rattled I can't think so thank you very much. And if you're concerned why I'm in a not such a rosie mood, I'm being encroached in and hind in and abandoned in on every side of me. And completely hind-in now to this, you're saying 30 foot there when they've got there, by your own pictures, this is in winter time here…they've got all this out, even here. In the summer this is all displays, clear out here and people parking over here and in every which…nobody could drive through there. And, further like as I say, Deputy State Fire Marshall Pat Clinch would never let any one of his trucks go down this way or this way. Another reason why this is an illegal, wrongly submitted petition; First of all, the petition itself is false, it doesn't have a place to list the decentors. It doesn't have a place to list…it's false also even in the way it's filled out, its supposed to have…at least the county does have a place for the name and mailing address of the people, the owners effected by the abandonment. Everyone on this alley is affected by the abandonment and there's no other names besides the Lorenzo's on here. Everyone signing this petition had the false impression that there's no objections to this petition. Further, the Lorenzo's falsely state, they sign there name here…I don't even see their signature on it, okay well I guess they have it on here, yeah they have it on here….no just their singing the…they filled this out saying that we have connected the above name landowners and the following landowners consent, they didn't contact me. If they…and you know, whoever else is an effected landowner on here, evidently they didn't contact them maybe they contacted some of them, you just don't know. But, they have filled out…this does not meet the requirements of the law. Further, Vickie Zeier, you're saying who has no experience as a Surveyor, it is a requirement of law that the County Surveyor be on site. The County Surveyor, not the Manager, the Surveyor. You said Vickie Zeier is the Surveyor now, that's her Title.

Commissioner Curtiss: By Title.

Ms Jamison: By Title, so the County Surveyor Vickie Zeier should have been out there, by law." My uh…you haven't…I'm opposed to this, there's just too many encroachments, there's too much to typography. There's too much problems with the typography going down hill into my house to get access. There's too much problems with typography on this side of my house without it getting access. There's problems in the summertime with their fat traffic going in every which way, this won't be travelable and they can't go down here anyway. It's not a safe idea, it's not safe for me, and it's not safe for anybody in that neighborhood. This is your opportunity Missoula County to start treating your roads responsibly instead of negligently. To stop trying to give them away and to do the responsible thing, that needs to be left open for all kinds of access for not just myself but for the neighbors and for the future. This was platted, that road, before 1907 and it's the only one in Clinton that has a 60 foot wide road there, and it needs to be left as a road. They can certainly have their…they have their customers park on the grass now anyway, up and around in here. They can have them park along these greenhouses here and park them right along here and then there will be room to go through. If this 60 foot width is not left the cars will continue to go every which way, this way they can park in here and there will be room to go through. That road needs to be completely left open, that's according to Deputy State Fire Marshall Pat Clinch.

Chair Landquist: Thank you. Is there any other public comment about this proposal we have before us? Okay James I do have a question for you, I don't know if I should close the hearing first and then ask a question or do I ask a question of James? Okay, so at this juncture since there's no other public comment the deliberations are up to the Commissioners, I think I'll close this portion of the hearing to the public and we'll go through our deliberations and if I may start with first asking you to clarify - is this application that we've been using do you consider that to meet the interpretation of the law?

James McCubbin: I do think this is a legally valid petition and actually I just gone through and rechecked the statue to insure that's my opinion and it is my opinion. Another couple comments, I am familiar with the pending petition to abandon to partially abandon the portion of Woodville Avenue used to access Ms Jamison's house and it is my opinion that she will continue to have legal and the same physical access that she now if and when that abandonment - that partial abandonment is completed. And that she had noted for the record that she agreed in writing to that partial abandonment.

Chair Landquist: So that was an abandonment with an easement through it or something?

James McCubbin: No it's just a partial abandonment so the part that's used will continue to be there as a public access. Another thing that occurred to me might be useful information to you. It appears that from this survey that there have been encroachments in the South part of 4th Street in the sections since at least…when was that Survey Steve, 2001?

Steve Smith: I have not checked the records to absolutely sure but my guess is the survey was done in approximately 2000 maybe early 2001. The drawing is dated February 2001.

James McCubbin: Okay. So I guess we have the convenience of having Greg Robertson, Public Works Director present with us and I think an interesting question would be – has there ever been a complaint about the encroachments on this stretch of road that have been there for some 9-10 years?

Greg Robertson: The one on 4th Street?

James McCubbin: Correct

Greg Robertson: No

James McCubbin: No? Okay. So that's all I have

Chair Landquist: I have a couple other questions for ya. Do you consider the fact that Steve Smith who's a County Surveyor, Licensed Surveyor and can represent Vickie Zeier; do you consider that to meet the law, intent of the law?

James McCubbin: Yes, it's my understanding that she has delegated that to staff. I'm not familiar with how exactly that was done but there's nothing inappropriate to her delegating that to someone that's under her oversight ultimately.

Greg Robertson: Title 7-4-2801 deals with office of the county surveyor specifically the section, section 1 deals with qualifications; one must either be a registered land surveyor or a registered professional engineer to hold the office of County Surveyor. Section 3, when the office of county surveyors consolidated with another county office, which that was done in this particular case when hoarses position was retired, it was consolidated with Vickie Zeier in the Clerk and Recorder and Treasurer, I think. When the County Surveyor is consolidated with another County Office within the County the requirements of subsection 1 are waived. Meaning Vickie is qualified under this particular section to hold that office. Unless the office holder has the qualifications prescribed in subsection 1, the officer shall with the approval the governing body, which did happen in this case, contract for the services of a person with those qualifications. That's what's been done and I am the one that the requirements have been turned over to - back in 2003.

Chair Landquist: My final question for you then James, do you consider the site (in auditable) that we did meets the intent of the law?

James McCubbin: Yes

Chair Landquist: You don't foresee e anything that we've done in going through this hearing as unlawful?

James McCubbin: No, I think it's abundantly clear from the maps and photos that have been presented in the discussion that there clearly was an investigation of the area and actually went well beyond just 4th Street; they investigated the whole area so I think that is a valid viewer. We have appropriate report of that – that's been submitted into the record and it was read in full, it's my understanding from Steve and from reviewing the written record was read in full verbatim by Steve Smith earlier in this preceding today.

Steve Smith: I'll just add that the background was not read, as I pointed out during this hearing that Commissioner Landquist basically covered the background.

Chair Landquist: Fellow Commissioners do you have any questions or concerns regarding this petition before us today?

Commissioner Carey: No

Commissioner Curtiss: I have just one to clarify – one item that Ms Jamison brought up was that the petition didn't identify people who dissented and I believe that's what the public hearing process is about to tell – have people tell us whether or not they're in favor or against. Do you believe that they need to write on the petition, the people who are against? We've never had that before.

James McCubbin: There's not a requirement that you list people that don't consent.

Chair Landquist: Without any other questions for our deliberations, fellow Commissioners I would appreciate it if a motion would be made or if you want me to make it and you guys can second, we can still vote on it - that you go with the recommendations that Steve and I, as the viewers, have come up with to abandon a portion of it, but not the full request.

Commissioner Carey: I think the road viewers report is reasonable and practical. I think I'll (in auditable) for an improved, improved conditions of those particular roads and so on.

Executive Session

Commissioner Carey made a motion that the Board of County Commissioners accept the road viewers' recommendation to not abandon the 4th Street as requested by the petitioners, but instead, in its place recommend that the South half of 4th Street be abandoned. Commissioner Curtiss seconded. The motion carried on a vote of 3-0.

Commissioner Curtiss added that the unique thing is that Clinton the typography in Clinton just various a lot, as it was stated earlier the town of Clinton was laid out in a very nice grid many years ago but as we seen over the years, many of those legal right-a-ways are not physically accessible by vehicles and I think that one such of those roads is the section of the 60 foot section of 4th Street that goes past Ms Jamison's house towards Mr Drinville's house that we abandoned previously because it wasn't a very physically usable road. Because of the typography that James has identified that this petition is legal and continues to provide access to the alley and to Ms Jamison's house. Emergency vehicles can response either they...when we do subdivision review 20 feet is what they request, this is 30 feet so I don't think we're jeopardizing public health and safety, we're recognizing more what's on the ground and still maintaining that public access. I think it's a good decision.

Chair Landquist moved that we have a motion, we have a second. The motion carried on a vote of 3-0.

Steve Smith: I'm looking at James McCubbin, now I believe all owners in this situation that coincide with the abandonment that's been granted, which Lot 1 is owned by David and Debra. Debra signed the petition, do we need her approval since David signed it do we need Debra's approval, granted we've testimony from her but as a matter of the paperwork? Is it necessary to have some sort of acknowledgment by Debra?

Chair Landquist: In writing you mean? Like by her signature?

Steve Smith: Well signature, yet at least through testimony I believe in the past we've acknowledged testimony.

James McCubbin: I think to the extent we require consent that's been clearly stated on the records. We're fine.

Steve Smith: Okay, just wanted to clarify. Thank you.

Chair Landquist: You'll be getting a letter and you're here at the hearing so - what we decided and why.

James McCubbin: One thing probably worth noting, Greg Robertson is the one who addressed about the intersection there if you're going to improve that, I think you mentioned that last time, he still requires some kind of an encroachment permit likely. Right Greg?

Commissioner Curtiss: Through Public Works?

Greg Robertson: Yes, yes that would be correct.

Chair Landquist: Yes, we've checked with them too so for being able to make the improvements that you wanted to be able to do for…cuz I understand the incline of stuff you just need to get an encroachment permit before doing any work there. As well as you might share that with your neighbor too because I know he wanted to play around with some alley work and stuff even though the county doesn't maintain alley's, he still might need to check with Public Works and get an encroachment permit first.

Ms Jamison: I would like to have a letter too if you're on the list of effected parties you automatically get a certified letter at the end and that's one of the things I wouldn't be getting because I'm not on that list. I would like to get the certified letter. I'd also like to get, where there any other public comments that were made that were mailed in or sent in of any kind what so ever? I'd also like to have a copy of the petition that they provided of how wonderfully they keep their property that they submitted last time, may I have a copy of that please?

Commissioner Curtiss: Didn't we give you a copy of that?

Ms Jamison: No, not that copy no not that. Was that a yes answer? Can I have the certified mail – the copy of the final thing?

Chair Landquist: Well we would certainly mail you a copy of whatever we mail….

Ms Jamison: Yeah, it would be automatic if I had been listed on as one of the effected parties. I've gotten them in the past when I was an effected party.

Commissioner Curtiss: Yes, we'll make sure you get a copy.

Chair Landquist: Thank you Steve, I appreciate your work on this.

7. HEARING

Resolution to Adopt Regional Plan for Water System Expansion in the Wye Area. Staff Report

Greg Robertson: with me today is John Gass of WGM Group who will give you a short presentation on our findings as a matter of history or matter of background. During the conception of developing the Wye Area Sewer Project a collective of land owners was interested in also developing a regional water authority or establishing, at least a water system to serve the Wye Area. At the time the cost were considerable to do both and the decision was made back in mid 2000's to forgo the water system notion and focus on providing sewer to the area. The sewer work has now been completed and we told this consortion of land owners that we would revisit the issue at a later date and so WGM was hired earlier this year to assist Missoula County and evaluating alternatives for development of a regional water system for the area that included looking at the expansion of Mountain Water System, also independent systems with some sort of (in audible) powers authority to manage it operation. So, I think before we go further it would be helpful to have John do his short presentation and give you an overall presentation of the issues we looked at and what we came to the conclusion.

John Gass – power point presentation

Public Comment:
None

Executive Session

Commissioner Curtis made a motion that the Board of County Commissioners sign the resolution to adopt this regional plan for a water system expansion in the Wye Area. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

RECESS

There being no further business to come before the Board, the Commissioners were in recess at 3:00. We will continue at 4:00pm with the next hearing regarding the Review of Pre-Disaster Mitigation plan.

8. HEARING

Review of Pre-Disaster Mitigation Plan
Chair Landquist called the meeting to order at 4:05pm

Bob Reid: Missoula County has what's called a Pre-Disaster Mitigation Plan and it's in some ways a qualifying document for funding sources at some point. It's also a formal way for the county and the city to asses a variety of hazards and risks that we face and come together with a strategy on how to deal with those. The plan that we have now has been in effect since I believe 2004 and it's required to be updated periodically and so were engaged in the update at this point. This project began last spring when we hired a consulting company here in town PBS&J and the person named Charlie Vandam to be our contractor to do this work and he's drafted the revision and among the requirements the process requirements are that we hold public meetings and get public comment on that and so that's what brings us here today. With that I'll turn it over to Charlie with PBS&J.

Charlie Vandam, Water Resource Planner with PBS&J: I'm currently under contract to do not only Missoula County but also Ravalli County and Mineral County and I also have another contract doing work on the Yellowstone County Pre-Disaster Mitigation Plan. I have a **PowerPoint** I'm gonna go through. I will be going through just some highlights of the update, I'm not gonna go through the whole update, the intent here is to update what we did in 2004. Some of the information in the plan is…was put into the original plan and we've just carried that forward. I think it's important to be able

to update relevant information especially related to any reason hazards. What the purpose is, as Bob mentioned, what we're trying to do is find ways to mitigate hazards before they happen.

What I'm looking for today - one of the objectives is try to get some feedback on the PDM Plan and specifically what kind of projects the community, both the city and the county needs to take on to try to mitigate some of the hazards that threaten the community. (Passed out cards for comments, questions) He asks that everyone list hazards that most threaten our community.

Commissioner Carey: You said you worked in Ravalli County – Is that lab down there in (in audible) to potential hazard?

Charlie Vandam: We did not look at Hazardous materials, toxic materials, and biological materials as being something we want to address in their plan. There was…we talked about that in 2004 whether we should address hazardous materials but there's environmental regulations or safety regulations that are intended to mitigate those hazards and at that time in 2004 we decided it wasn't the place for this plan to address that. Also, in the State update, when the State just finished their mitigation plan they kept it all on national hazards on what the threat is from National Hazards related to a man-made facility or a chemical facility or hazardous materials facility.

Commissioner Carey: It just strikes me that if somebody were to blow up that biological lab and the wind was coming from the South we'd have a problem too it seems.

Charlie Vandam: I'm glad you brought that up because the thing is what we want to be able to do is identify where we can mitigate national hazards. There are all sorts of things to do as far as response and we have an EOP that's intended to response, how do we respond to an incident like that. But, we could look at…there could be a number of ways that there could be a terrorists attack that could cause damage and threaten the community, whether it's through damn failure, blowing up a damn. In 2004 and again this…for this update we're not looking at trying to address those types of hazards.

Commissioner Curtiss: Are the labs required to have their own disaster plan? We always say that everybody should have a disaster plan but thought maybe because of the materials they have, they have to have some sort of reaction plan.

Charlie Vandam: They do and I know that like if we take the University they have to have their own Pre-Disaster Mitigation Plan because their actual a safe facility. But as far as a private facility they're not required to have a PDM plan but they do have plans in place for releases; what's going to be the extent of the release and how much of an area that's going to be impacted and what kind of response they have to be…how they have to response to that sort of release.

I think maybe it has to do to some extent with disaster nomenclature. A number of organizations are required to have response plans and they do those so they know how they're going to react to things when they occur. As Charlie said, this plan deals primarily with natural hazards in the…based on the belief that the things that could be done to mitigate all of these other man caused things are handled through other regulatory measures that are already in existence.

Charlie Vandam: The emergency operations plans intended for response, the PDM Plan is intended for mitigation and as I said a lot of the fixed facilities are regulated on what they can handle on how, hopefully they can mitigate potential hazards.

One thing that we tried to do a little bit different in this plan update is to approach each hazard and try to come up with a semi-quantitative way to determine the risk between the different hazards. And what I'll talk about through-out as I'm addressing some of the major hazards is annualized lost. We can think of it simply as being if we have a 100 year flood and we have ten million dollars in damage, if that flood only occurs once, is a 1% chance or once every 100 years then our annualized lost is one

hundred thousand dollars. We're just trying to look at things at…trying to compare apples to apples so as I go through these hazards I'm trying to relate things to annualized losses, what we could expect on a average, what the losses would be. Now the event may occur once every 50 years or it could be like wind storms that occur every year when there's damage every year. That's what I've done a little bit differently on this plan and just tried to come up with an annualized lost for all the hazards. I'm gonna try to go through some of the major ones, more significant hazards and what kind of exposure there is. (**PowerPoint slides**)

Bill Coldwell: As I read the information there was property loss for home loss in the Blackfoot and the bridge loss that's information that you gathered independently then of the other data sources?

Charlie Vandam: Yeah, that was gathered from Missoulian Articles or I can't remember Bill what source. That's not included under this – those losses were included under the ice jam.

Commissioner Curtiss: So you reflected somewhere in the report those losses but they're not in these charts, is that what you're saying?

Charlie Vandam: Well, I'm covering some of the highlights, I'm not going through every hazard – I wanted to point out some of the more significant hazards that affect the county. I'm gonna summarize it in the table, covering all the losses - what our estimated annualized loss is.

Chair Landquist: Charlie, the resources that you were using to go back to try to find the damages you use the acronym for them but what is unacronym..?

Charlie Vandam: You would me that! I have it in the plan and if you give me a second I'll tell you exactly what it means, I just don't have that...didn't roll off the tip of my tongue.

Chair Landquist: I still find it kind of curious that there wasn't anything recorded form '96 because that was a pretty crazy year for disasters that happen within the county.

Charlie Vandam: It's complied by the University of South Carolina it's the spatial hazard events and losses data base. And it's been the standard what they use for most of this work and trying to assess what kind of losses there could be. Now the one thing it does do is…and I don't know how they generate some of the data but they do estimate losses where I couldn't find any source for it. I'm not sure how they generate some of that data, how they generate some of those losses. In periods where we don't have any records even in a nice national climatic data center or anything that I'm familiar with, they identify losses. I think some of that is statistically generated based upon a type of hazard that occurs.

Public Comments:

Commissioner Carey: I wonder in suggesting that we'll have a significant wildfire event every twenty-five (25) years, what would be the difference if we said no it's every five (5) years, does it have any real impact of what we do?

Charlie Vandam: I'm sure we've…especially looking at recent history we've had quite a few wildfire and we almost have wildfires every year. But, in looking at when we have losses granted a lot of the resources are put into fighting wildfire to protect structures and a lot of times at the expense of actually fighting wildfire. But, if you look at when we've had losses there hasn't been that many in recent history in the last 20 years. So that's what I looked at Bill and when I looked at…sure we have fires almost every year but significant ones where we actually have structural lost.

Commissioner Carey: what about the cost of fighting those fires though? I mean if you're going to fight a significant wildlife fire every five (5) years instead of every twenty-five (25).

Charlie Vandam: And that is again, I'm looking at what are we doing for mitigating what kind of structure loss we have and not in a cost for actually responding and fighting fires. It gets to be kind of a hard number to figure in on what the local cost is because a lot of resources come from state and federal money for fighting fires sure there's cost at the local level but for trying to assess this and come up with a number I didn't factor that.

Commissioner Curtiss: So one of the goals that you had on there was to limit tree equipment or something to look for a warning system on Rock Creek Damn, how expensive is something like that? And then does it connect to our 9-1-1 system or reverse 9-1-1, how do they work to notify people?

Charlie Vandam: I can't answer that question Jean. I don't know what the cost would be and I don't know if Bob would have an idea how it would connect.

Bob Reid: I don't know either. Another variable in that of course is that although Missoula County might bare the effects of that, the source of is in another county and so it would be a question of which county would bare the costs or the initiative to get it done.
Comment: As far as copies of the plan, my thought was that after we had gotten through this meeting and knew what comments or significant changes we might have to make to the graph as a result of this. Once that's done we'll go ahead and put that on the counties website with an avenue for online comments like we've done with the ELP as well.

Chair Landquist: I think that's a great idea. How long do you think it'll be before that's on there and then when will this come out of draft form?

Charlie Vandam: I don't see a lot of changes to the draft come out of today. I think within two to three weeks we could have it up there.

Commissioner Curtiss: Do we have a required comment period time?

Charlie Vandam: There's not a required comment period time. But what I'd like to do is see about getting comments identified here December 17th but if we wanted to have it available on a revised form then perhaps we should have it open until the beginning of the year anyways, at least the first or second week in January.

Chair Landquist: I think that's a great idea to leave the comment period open till maybe the first of the year also and since this is going to be on MCAT – MCAT does a fantastic job of replaying the program a number times so perhaps there's someway to make the comment cards available easier on our website so that anybody that's seeing it at home can go on our website and get a comment card easy, if they want to fill that out. The other thing to remind people is even if you're not in the MCAT viewing area, if you look at a channel guide, or I think MCAT's even got a thing online where you can see the programming, they stream this online on the computer when their showing it on the television, so that even those people that aren't in the Bresnan viewing area to see MCAT can look at it that way too.

Charlie Vandam: I would add in that again for the MCAT audience, although we're in a county meeting today it is a City-County document and so city residents should feel free to comment on that, I encourage that.

Chair Landquist: And have you already done a presentation to the City Council?

Charlie Vandam: No we haven't done that.

Chair Landquist: Are you planning on doing something like that? It might be a good idea.

Charlie Vandam: Well we hadn't planned on it. We had…the idea was to have a public forum and have everybody invited to it, not necessarily specific to your audience but just have it available to anybody. I guess that would be something to entertain, whether we want to do that when we revise the plan. We've been involved with city officials and had input from them on this and so I'll certainly take that up with them across the street as how they want to address it.

Chair Landquist: I think that the viewing audience and the people that come to there meetings, they have them in the evening and may get more people involved, more public process there and there's twelve (12) significant minds, critical minds, thinkers and the Mayor. I just think this is a city-county thing we should definitely check with the city side.

Commissioner Curtiss: well the other thing is I think it's really important that we some how make a link on their website, I know you can work with their folks to do that because folks within the city are much more in tune with the city's website then they are ours.

Chair Landquist: The city has a lot of public followers, a lot of the people that live in the city zoom in on things from the city council perspective things and sort of just think that we're handling things from a larger perspective that doesn't really concern them so that's a really important point that you made Bob that this is a city-council plan.

Pam Walzer, Missoula City Council and LEPC: I think it would be helpful to have whether it's a public hearing or just have an informational meeting. We do have a lot of folks that do pay attention and a lot of very talented citizens who can offer a lot of ideas and expertise, although I do know that Bob's work well with our staff to have it available and I can work with Bob to see if we can at least get it linked through the city's website because it is important for our community. And if we want to refer this to Public Safety and Health we can get that on a committee agenda and then have a public hearing at night.

Charlie Vandam: We're in the process of working with the City on setting up briefing schedules for the emergency operations plan or disaster plan for them so it might be an easy fix to just put this on the same channel, I can talk about it all at once too.

Chair Landquist: We're calling this a hearing and normally we open hearings and we close hearings but this doesn't seem like it's that kind of hearing, is it? Where we need to open necessarily and close it or do we? Yes? OK

Bob Reid: Charlie and I could go ahead and close the hearing and then he and I can stay here and be available if anybody happens to show up between now and 5:30 or so that may be expecting a second session. We'll be glad to talk through this and take comments from them as well.

Chair Landquist: Thank you, is there any other public comments?

Dan Corti: I just have a couple observations. 1) I think the current plan is a great compellation based on available data of severity and frequency of risks. One of the things is currently lacks though is an evaluation component so it would be possible in the next five (5) year review to look back and see what mitigation measures have been put in place based on the current plan as it's going forward. Absent that, it becomes just a really nice document that catalogs risks but I think it should serve as a template for what direction the community wants to take to actually mitigate some of those risks.

Commissioner Curtiss: Dan are you saying that there should be a way in there to say are we meeting any of these goals?

Dan Corti: Exactly. I think the document meets the federal requirements now, if I'm correct, in that it does catalog the severity and frequency. But, to be really useful at the local level it would be very helpful to actually look back and see what we have done in regard to those.

Charlie Vandam: Let me address that before you leave Dan. As part of the requirement is to go through and look at what was identified before and what action has taken place. There is a section that does look at…review all those projects and determines; was it completed? Is it going to be carried forward? Is it going to be eliminated? There is a table in there that does address those projects. There is an annual requirement to review these plans and I think it's typically been put on the shoulders of the LEPC to take it up and look at the plan, open it up and say okay where are we going, what have we done, and be able to identify progress. I think it's important that they put that on the regular agenda that they do annual review of the PDM Plan.

Commissioner Curtiss: Seems like it might be a good follow-up to that then to have someone from LEPC give an annual report to the City Council and the Commissioners just as to what the review showed.

9. OTHER BUSINESS

None

10. RECESS

There being no further business to come before the Board, the Commissioners were in recess at 3:05pm.