If anyone attending the Public Meetings needs special assistance, please provide advance notice by calling 258-4877. Missoula County will provide auxiliary aids and services.

1. CALL TO ORDER

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

Staff Present: Jennie Dixon, CAPS, Cindy Wulfekuhle, CAPS, Hilary Schoendorf, CAPS, Deb Evision, Public Works, Steve Hutchings, Public Works

2. PLEDGE OF ALLEGIANCE

3. AWARD PRESENTATION (State DES)

Johnson/Kehrwald Flood Acquisition Award

Chair Landquist: The next thing we have is a presentation; this has been a long time in the works. We’re glad on so many levels that this is finally starting to wrap up for us. Todd, did you want to say something first to lead us into this?

Todd Klietz: Briefly, in 2011 the County experienced about a 10 year flood on the Clark Fork River which was a significant flood event down on the Tower and Kehrwald neighborhood. One of the homes down there was substantially damaged by that flood. The folks that live in that home were either going to have to rebuild that structure to be compliant with floodplain regulations or abandon the site. We were fortunate to be able to work with FEMA and our friends at Montana DES to be able to secure a grant from them to purchase this house outright. We turned this site to open space perpetuity. Kent Atwood is here from Montana DES.

DES presented the Commissioners with a check for $119,000.00.

Commissioner Curtiss: I think it would be interesting for the public to know that part of the...we'll go through all of the steps as required but after we make sure there’s no hazardous things to burn, like asbestos Missoula Rural Fire has agreed to...part of the match is their burning down of the building. We'll make sure the neighbors know what day the fire will start.
4. PUBLIC ANNOUNCEMENTS
   Chair Landquist: Private well owners, the Missoula City-County Health Department, Water Quality District is offering at a reduced price, for a limited period of time ~ through May 31\textsuperscript{st}, private well water testing. Special price is $28.00; normal price is about $50.00. Spring time is a good time to test for your water quality to make sure that there isn’t a high level of bacteria or nitrates or arsenic in your water. If you’ve never had your water tested you might want to take advantage of the services. If you have and just want to check your water quality, this would be an outstanding time to do it. Again, this is only for private well owners not commercial entities with public water supplies.

5. PUBLIC COMMENT
   None

6. ROUTINE ADMINISTRATIVE ACTIONS
   Bi-Weekly Claims List ($1,339,376.38)

   Executive Session
   Commissioner Carey made motion that the Board of County Commissioners approve the Bi-Weekly Claims list in the amount of $1,339,376.38. Commissioner Curtiss second the motion. The motion carried a vote of 3-0.

7. HEARINGS
   a. Bennett Family Transfer (Huson Area) Certificate of Survey
      Jennie Dixon gave report and asked Mr. Ray Bennett the standard family transfer questions.

      Public Comment
      None

      Executive Session
      Commissioner Carey made motion to approve the request by Ray and Mary Bennett to create one (1) 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 Curtiss second the motion. The motion carried a vote of 3-0.

   b. CDBG Grant Application Submission (Poverello Proposed Replacement Facility)
      Cindy Wulfekuhle gave report on behalf of Jean Harte who is out ill. The Poverello Center, a Missoula Non-Profit Organization has asked Missoula County to submit a grant application on its behalf to the Montana Department of Commerce for Community Development Block Grant Funds, or CDBG, as we refer to them. If the application for $450,000 is successful the funds will be part of the approximate $5,000,000 project to replace the existing Poverello Center, which lacks decent, safe and sanitary housing conditions, with a code compliant, accessible new building and soup kitchen to be located at 1106 West Broadway in Missoula. Construction of the new accessible
building will allow the Poverello Center to continue to serve extremely low income persons with emergency housing, short-stay housing and transitional housing for veterans. Other sources of funds include the Veterans Administration, HUD’s Economic Development Initiative and Community Development Block Grant Program, Missoula Redevelopment Agency, Montana Community Development Corporation for new market tax credits, the Environmental Protection Agency Brownfield Program, private foundations, the City and County of Missoula, the Poverello through the sale of its current facility and the generosity of donors through a capital campaign. The Department of Commerce’s federal fiscal year 2013 CDBG Program allows homeless shelters and similar residential or temporary facilities where the primary mission of the facility is to provide for emergency housing to be eligible for funding within the competitive housing and neighborhood renewal category. Examples of these types of housing facilities are emergency shelters, transitional housing, homeless shelters, domestic violence shelters, youth shelters and group homes and shelters for individuals with mental health issues. The application will be ranked at the State level in a competitive ranking process that will include an evaluation of needs, local planning efforts, project strategy and design and benefits low and moderate income persons. Each year in the fall, Missoula staff conducts a Community Needs Assessment meeting to identify housing, economic development, public facility and public service needs in the City and County of Missoula. The Poverello Center’s project has been on the list of priority needs in past years and ranked with high priority when discussed last fall at the community needs assessment meeting held August 28, 2012. The purpose of this second public meeting is to explain the project, its activities and funding, project design and to obtain public comment. Eran Fowler Pehan, the Executive Director of the Poverello Center, and John Wells, who is the project Architect will describe in more detail the project and answer any questions. I just want to add that comments can be given today, orally or we will accept them in writing through May 14th, 2013.

Chair Landquist: Cindy, since this is a hearing on this and you will still be accepting comments, how do we as a Commission oversee this as a hearing? We can ask for public comments, we can hear from people that are here but do we actually make a motion and take action on this?

Cindy Wulfekuhle: You would make a motion today to approve and submit and if there are comments that come in that would be a big red flag for this project, we would bring that back to you. Sometimes people just have questions after the fact, after they've had time to think about it a little bit and then as staff we usually can answer those without any issues.

Chair Landquist: Okay. I wanted to ask that because I’m just concerned for the public that may be out there watching in TV land seeing this and saying; gee you can make public comment but then the Commissioners are going to make a motion and take action. So people aren’t confused and are able to make a comment and have it mean anything.

Cindy Wulfekuhle: There’s still time before the application goes in so since this may be the first time that people are hearing about it, it does give a few more days at least to make comment.
Eran Fowler Pehan – Executive Director of the Poverello Center: I’ll share a little bit with you about our relocation project and the programming that will reside in the building and then if you have specific building questions, as Cindy said, our architect John Wells is here with us. So we are currently working on a relocation project, we have been for in earnest for about three years now. In April of 2012 we purchased 1106 and 1112 West Broadway, what’s known as the former Trails End Bar, to build a right-sized replacement homeless shelter and soup kitchen. The new facility is not going to be dramatically larger than the current facility but it’s going to be much more smartly designed, have lots of multi-use spaces so that we can serve the number of men and women who find themselves homeless today, with room for expansion if the need...as the need arrives as our population grows. The new facility will focus on our primary mission of providing emergency food and shelter, with additional programming for our veterans returning home from war. We’ll have 26 beds specifically for honorably discharged veterans enrolled in Veteran’s Administration grant Per Diem program that will allow veterans to reside with us for up to two years while they address underlying barriers to success and really work on getting employed and finding housing. We anticipate most veterans will stay with us for about six to nine months in that program. Then our really core basic services and we’re just a shelter and emergency food. We will have a little over 100 bed spaces for men and women who find themselves homeless, that’s about what we’re sleeping on our busiest winter nights now and then again as I said we’ll have lots of multi-use spaces to accommodate an overflow. We’ll also have dramatically increased kitchen space and a slightly larger dining room. Right now we produce about 350 meals a day, about 11,000 meals a month, in a kitchen that’s not much bigger than the one you probably have in your home, so that’s really going to impact efficiency. Then another really important goal for us is to increase storage space. Right now we have to turn away thousands of pounds of donated food through Garden City Harvest at the end of their season, from hunters during the winter season because we just simply don’t have storage space for it. That causes us to have to purchase a lot of really low quality foods in the winter time to get us through. So increased storage capacity will allow us to be more sustainable and efficient as an organization. It’s also really important to note that the veterans programming, which I spoke about will bring in operational revenue right now that we don’t already receive. So in addition to the slightly over $500,000 we received in bricks and mortar funding for the new project we will receive up to $360,000 annually in operational reimbursement from the Veterans Administration. So what this does for the Poverello Center in terms of sustainability is quite revolutionary so we’re very excited about that and how that will allow us to continue meeting the need in Missoula without draining community resources that are already so stretched. In terms of timeline for the new facility; we just completed abatement on the old Trails Ends site, which was thorough and laborious. That building definitely needed to be cleaned up and so we’ll be working towards demo in the coming months. We’ll get that site nice and cleared and cleaned and ready for new construction. We’re looking at breaking ground in August of this year. I’ll just give you a really quick recap on the funding streams for the project and then turn it over to John and answer any questions you have. As Cindy pointed out we have a really diverse mix of local, federal and private funding for the project which I think really speaks to the wide array of support and necessity for an emergency housing facility in Missoula. We currently have raised just over 70% of the total project cost we have in hand. A lot of that comes from campaign efforts that we have been engaged in the quiet phase, private gifts from individuals. It also includes a $285,000 grant from the Department of Housing and Urban Development, as I stated a
Chair Landquist: Nice job, thank you for the work you do.

John Wells: A brief overview of the building; it’s going to be a two-story with full basement facility, 22,000 square feet. Some cutting edge best practice design elements for a facility like this separating the different populations that the Poverello sees. The quality of the space that the clients will be living in is going to be strikingly different than the quality of the space they are currently in. The efficiency of this space; we’re getting a lot more utility per square foot out of this building than the existing Poverello Center was over 13,000 square feet but very efficiently designed and grew very inefficiently over time. We have focused on keeping things very durable, low-maintenance and long-lasting and not real fancy but I think it’s going to serve the purpose for what it’s intended for a very long time and we hope very much it will be a beautiful building and a credit to the neighborhood. There will be an adequate courtyard for the clients to spend their days in. This is something that is very important not just to the clients but to the community at large, when you have no place to go you end up being quite often inappropriately in other peoples private space or inappropriately in public space so they will have appropriate space for themselves. The soup kitchen as it exists is not only small but quite decrepit and it will be a nice, new modern kitchen. I think that there’s not only a lot of clients but a lot of volunteers that spend time in that kitchen. We’re very excited about that. That’s a quick overview, happy to take any questions.

Commissioner Carey: What’s the exterior going to look like? What’s it made out of?

John Wells: We’re working on the budget right now and we’re at a point like all projects are where the hopes are here and the money’s there, we’re trying to make them meet. The external skin of the facility is some place where we can save money, if we have too. We are going to have an appropriate amount of natural light. We’re focusing as much as we can of the natural light into the community areas, dining and classrooms and such. All the sleeping areas will have natural light, so that’s something that’s quite different than the existing facility with this connection to the exterior. So you’ll see an express of those windows. The skin of the facility we’re hoping to use some metal products that last a long time, low maintenance. There is some infill pieces where we’re using, cement core, which is a very good, tough product that holds paint. Well, we’re not real excited about that because anything you paint, you have to repaint. We would have liked to have masonry on it. We’re still collecting donations so if that right check comes in we might get some brick on it.

Chair Landquist: Might seem like an odd question but with all the different inadequacies that you’re talking about the existing building, will the new building have Wi-Fi available for the clients to be able to use?
Eran Fowler Pehan: Yes and that’s our favorite thing to say is that the new Pov. will not be the old Pov. We'll have a lot there that we don’t currently have. We actually will have a pretty extensive education or literacy center so we’ll have lots of things; computers, secure wi-fi for folks to access. We’ll be teaching GED preparation courses, job training courses, resume writing course, things we’d love to do now but we simply don’t have the space to do it. We really will have an interior space for people to engage in productive activity, which we don’t have now which is why we see so many people milling around town because they have to leave the building at 7:00 every morning just so we can clean it because it’s so crowded. Another thing I didn’t mention which is probably a particular interest to you is that we will be expanding, doubling our Partnership Health Center Clinic in the new facility. We’ll still have one provider and one nurse but we’ll have two rooms which will allow them to serve double the number of people. Now they see anywhere up to 15 folks per day so that is a very high use of the clinic. And we also will be adding four medical rooms, folks coming to us as a discharge from the hospital and chronic health needs, it’s a very growing number so we’ll have the ability to take direct discharges from the hospital. Having Partnership Health Center there on site will be much more oversight for those folks and that was made possible through a very generous donation of $200,000 from St. Patrick Hospital. So our ability to serve folks for medical issues will go up dramatically.

Public Comment
None

Executive Session
Commissioner Curtiss made motion that Missoula County submit the grant application submission on behalf of the Proverello. Commissioner Carey second the motion. The motion carried a vote of 3-0.

c. Zoning Request from Unzoned to C-I1 (Light Industry) Decker Investments ~ near the Wye
Hilary Schoendorf gave report. The applicants are requesting to zone the property in order to connect to sewer. The subject property is approximately 20 acres and is currently vacant. The property abuts Interstate 90 and Hwy 10 West and is approximately a ¼ mile from the Wye Intersection. The property is surrounded by commercial and industrial uses to the SW and East and vacant land to the North. The 2005 Wye-Mullan Plan designates this area as light industrial and light industrial commercial. The applicants are proposing to locate a multi-use truck facility which would include a truck mechanic facility, a dispatch area, a semi-truck wash and filling station at this location. Under the intent statement for the C11 zoning district, it states this zone accommodates warehousing and storage, transportation facilities, commercial uses with large land requirements. The proposed use would fall within this intent statement. In the C11 zoning district, the proposed use for a multi truck facility would be classified as a conditional use, which includes distribution and transportation facility excluding railroad facility. Conditional uses are approved administratively and they’re subject to some additional chapters within the county zoning resolution Chapter 3 and Chapter 4, these Chapters have to do with parking, landscaping and screening. The subject property has two frontages, one on Highway 10 and the other on I-90.
which would require a 50’ setback and then 15’ setbacks from the two other property lines. Any building permit would be reviewed for zoning compliance.

Chair Landquist: Can you go back to that picture real quick? What is that going through that property? Irrigation ditches or is it a road or what?

Commissioner Curtiss: It looks to me like it’s the way they did the farming.

Hilary Schoendorf: It’s not a road, I can tell you that. So staff recommends approval subject to a condition which states that the developer, the developer’s representative shall submit an application to petition for annexation into the Missoula Urban Transportation District prior to the Resolution to adopt. However, at the planning status meeting on Monday there was some discussion about whether this parcel shall pay for public transportation services that it does not yet receive and possible whether there was a trigger that we could require the parcel to annex once those services are acquired. Unfortunately staff was not able to find a condition that would adequately service as a trigger so if this is something that the Commissioners do not want and then staff recommends just leaving it out.

Chair Landquist: You couldn't find a what?

Hilary Schoendorf: A trigger, a condition that would adequately serve as a trigger for when they should petition to annex.

Commissioner Curtiss: When the bus started going out there, there wouldn’t be anything that our staff would automatically know that it was time to implement that.

Hilary Schoendorf: Our recommendation was based on these reasons but the zoning complies with the comp plan land use designation. There are emergency services available to the site. The site is located inside the wastewater service area and is served by public infrastructure. This was unanimously recommended approval from planning board with staff’s condition.

Commissioner Curtiss: Is the reason that they need to zone is because it will be able to hook up to the city sewer?

Hilary Schoendorf: Yes.

Jason Rice, Territorial Landworks: I’m the Project Manager and Engineer. Paul Foresting is the planner and he’s out of town so I’m just representing on the zoning right now. I know a little bit more about the future intent of the property so I might be able to help on the Urban Transportation District issue. I think the staff has done a great job getting us ready for this. The unfortunate part of all this is triggers, we wanted to build a building, had to figure out how to put sewer out there. Sewer happens to be within 200’ so they have to hook up to sewer. City of Missoula has an ordinance that says; if you want to hook up to our sewer you have to zone. These guys actually are already located out there, kiddy corner across from this on Hwy 10. The service they have is office for their dispatchers; it isn’t open for the public. The cost of hooking to the sewer is probably about four times as much as it would have
been to put a drainfield in but they had to do it. We really want to limit their expenses considering that they are trying to expand and bring more jobs to the area, they could have gone another ¼ mile down the road and purchased a different piece property had they known all these hurdles. What I was going to offer as a trigger is they have more land than they need. We developed this plan with the idea that they’re going to subdivide it off is I think their hope.

Chair Landquist: Do they access the property from Hwy 10?

Jason Rice: Yes they do. That’s the other one is the setbacks because interstate 90 is obviously a limited access so I wasn’t considering this through lot. Their goal is…they’re paying a lease right now so in order to help this whole thing get funded they need to get into their new building so they can stop paying the lease on their other building and then do something with the land. Our plan is to try and get them going, they’ve been astounded at the cost of some of the things they had to do. They actually wanted to put in a third building for purely wash and because the cost has gotten to be so high they scaled their project back just because of the expenses so in the future they still hope to put in a wash building as part of it. There’s also future permits that could trigger any of this stuff too, we really respectively request that that be removed. We didn’t see any findings of fact or any other criteria in the zoning review that triggered or referred out to this that would make them valid so we’ll make them invalid by getting rid of it. And the planning board also brought the question and I think the answer was basically they would have to pay into the tax system so there was no service available for it. There’s a lot reasons not to do it, considering what their load is on the system considering they’re already there and they’re not needing the bus system, we just prefer not to have to do that at this point and time.

Chair Landquist: I’m just trying to figure out a way to make it fair and equitable compared to decisions we’ve already made in the past and making that requirement and now moving forward, it is a hardship to ask people to pay into something in a district…to be a part of a district when you’re not even able to receive services from that district yet. What would be the trigger and what would be fair and equitable? I understand Mountain Lines reasoning for wanting to expand their revenues that come from their districts because that allows them to then use those monies to help them grow. Maybe...I’m just throwing this out because I’m not a really big fan of these either, which is why I’m having trouble getting the words but similar to what has been done regarding sidewalk, SID’s, RSID’s right of refusal. Like maybe when the bus has finally enough growth, whether it be housing or industry to warrant the bus service to go out there, that that would be a trigger and Mountain Line would certainly let us know.

Commissioner Curtiss: You’re talking about a waiver of right?

Chair Landquist: Yes, waiver of…refuse to protest. Maybe we could craft some language like that that would work. That would be a selling point even to the other piece of property that eventually may be separated from this; possibility to be on the bus route. Once you’re in that district do you get to ride the bus for free because you’re paying into that?

Commissioner Curtiss: No
Chair Landquist: It just means that the bus will be coming through your area? Okay, I needed clarification on that.

Commissioner Curtiss: It doesn’t mean any of that.

Jason Rice: It doesn’t even mean it will be coming through your area.

Chair Landquist: In that area, I know WGM brought something a long time ago similar in the same area and we put that...

Commissioner Curtiss: This is the bus service that got cut when they increased the service downtown.

Chair Landquist: So how do we come up with something to make it fair and equitable not only now but as we move forward? Maybe that...how do you pronounce it?

Commissioner Curtiss: Waiver of a right to protest the annexation into MDUTD in the future when service is available.

Chair Landquist: Yes. Maybe we can do something like that?

Commissioner Carey: Jason, what is the cost of being part the district?

Jason Rice: That’s one of the unanswered questions that I can’t find an answer to even on their website or anywhere.

Commissioner Curtiss: I think it’s based on your property value.

Hilary Schoendorf: I called Michael Tree yesterday afternoon, I left him a message but I haven’t heard back so I don’t have an answer to that one.

Jason Rice: My fear is if it’s a percentage of the value of the land, their obviously putting in a nice improvement so now they’re going to get penalized for that, for a service that they don’t use. It’s not even the fact that they’re remote even if they were closer to town it would be harder to take because there’s just not...it’s not manufacturing so there’s no workers coming there every day. They’re in the county but their getting some city services so they’re paying city impact fees and they’re paying for a county building permit, so you have both sides going here. We reminded them they’re not paying a sales tax on all their equipment and the materials that they buy.

Chair Landquist: From my perspective I’m trying to understand all the different moving pieces; Mountain Line’s predicament as they want to move forward and grow and provide services and it is a good service. I’m trying to look at the dollars and cents that people pay. I’m also looking at the ones that we’ve approved, there was one just a few weeks ago and we didn’t think of it and yes, they’re in that district and they’re a little further out even. So how do we as moving forward not only today but as we continue to move forward, how do we try to make that fair and equitable? The only way that I can see to make it fair and equitable is not to make it applicable at this point and time.
but make it applicable when it does make sense by having the owners of that give up their right to protest.

Commissioner Curtiss: Hilary, did staff talk about this at all?

Hilary Schoendorf: We didn’t talk about this.

Commissioner Curtiss: The trigger then would be Mountain Line, they be the ones who would decide when it was time to ask.

Hilary Schoendorf: I think so; if they decided and that could be then they waive their right to protest.

Jason Rice: This is something else that’s interesting to bring up; you’re getting the city and county talking a little bit more on the sewer service area would maybe a good thing too. I actually noticed in the planning board minutes they said why aren’t we doing a bigger picture of zoning? Where ever the sewer goes, if the city’s going to require zoning to go with hookup, I don’t know why we’re not triggering a zoning process to ride with the sewer; otherwise everybody’s coming through piece meal. This is where time is also of the essence because it was even down to the point where it was suggested and it was a good suggestion by the planning office was; contact some of the neighbors and maybe roll them in because the fee would be the same. Our client said time is more important to me right now; this compared to all of the other fees is pretty small, let’s just get it done. I agree that if we’re going to have these two ordinances and conflicting we have County Health that says you have to hook to public sewer, public sewer in other words, if you just put in front of your property triggers zoning so essentially if you ever want to do anything with your property you plead your right..

Chair Landquist: When you want to hook it up.

Jason Rice: Correct. So the zoning should really be following any of the sewer.

Commissioner Curtiss: Problem is when you get out here the people across the street are commercial, you’re going to be industrial, what do we zone it as in areas that are a little less defined at this point and time? We did this when we went out Mullan with the sewer, we did their Wye/Mullan plan shortly after that and could take all that into consideration.

Jason Rice: I understand that, it’s just one of those ones where even this one it’s following the comp plan and growth policy so I guess that would be the best...

Commissioner Curtiss: In the past the property owners 40% could overturn zoning so we didn’t waste a lot of time trying to zone where people weren’t saying they wanted to be.

Jason Rice: I agree and our method was going to be; hey by the way did you know when you want to take advantage of the sewer it’s going to require zoning so if you think you’re going to, we can help you. Time is the essence too and that’s the other thing I see with this is maybe not even the expense if it was only $50.00 a year,
$100.00 year, it's going through this other process. They actually have already submitted for building permit in anticipation of this process and like I said they want to be into this building by August so we're really moving and so this is just another process. We'll be talking about how that can even occur because if the protest period comes and goes and somebody protests, we still have unzoned land that would technically have a zone compliance. So I don't know why we would wait for the protest period I guess is my point, I don't know why we couldn't just sign off understanding that either or would work. That's not an issue for you guys to worry about but that's something we're trying to do is get this thing moving because we're really beating weather here is what we're trying to do.

Commissioner Curtiss: I can't resist saying on the record that I find it interesting that the City can impose impact fees where they did do provide services. You're going to pay for the sewer through the sewer fees.

Jason Rice: I would have to agree with you and I tried to make a run at getting them removed but apparently they dug their heels in on DeMarois and theirs was much larger than this one.

Chair Landquist: Could you explain that to me Jean, the impact fees you were just talking about?

Commissioner Curtiss: I cannot explain it to you because it does not make sense to me. The City has…

Chair Landquist: So they're going to get some impact fees off of this?

Commissioner Curtiss: Lots of them.

Chair Landquist: Even though this is in the county but just because it's going to get hooked up to the sewer?

Commissioner Curtiss: Yes.

Public Comment
None

Executive Session
Commissioner Curtiss made motion that the Board of County Commissioners amend Attachment 1, Planning Boards recommendations under the recommendation for the condition to read; the developer shall waive the right to protest annexation into the Missoula Urban Transportation District in the future when service is available to the property. Commissioner Carey second the motion. The motion carried a vote of 3-0.

Commissioner Curtiss made motion that the request to zone the property legally described as Tract 1, COS 6341, Section 21, Township 13 North, Range 20 West to CI1 Light Industry be approved subject to the condition of approval based on the findings of fact in the staff report and discuss here today. Commissioner Carey second. The motion carried a vote of 3-0.
d. Proposed Modifications to Missoula County Building Code Enforcement Program

Steve Hutchings gave report. Today is the seventh anniversary of the incorporation of the building code program; May 2006 is when the State certified the program. We are proposing to increase the size of the exemption for buildings that don’t have to have building permits. Currently detached accessory storage structures that do not exceed 120 square feet of floor area are exempt from having to have a building permit. They would still be subject to any other requirements to the county, any land use, flood plain and electrical permits, what have you. We are proposing to increase the exemption up to 200 square feet and that is actually in line with the new code when the State adopts 2012 International Residential Code. We’re also asking to increase the exemption on the height of the fences. Currently, someone could build a fence up to 6 foot and not have to have a building permit; we are asking to increase that to 8 foot. The reason for that is I had some engineering done just to see what it would cost or what it would take to build an 8 foot tall fence to code and it would have to have 4x4’s that were in the ground 6 feet because you’re talking 14 foot 4x4’s to make a fence. The cost would be prohibited so we’re increasing…

Commissioner Curtiss: And I’d hate to dig that hole!

Steve Hutchings: We’re asking to increase that and we’re also asking to eliminate the agriculture exemption and in lieu of that create a new category for buildings and that is in the proposed ordinance…or resolution. Between 201 square feet up to 2,000 square feet of floor area the permit will be $200.00, that will include planning review and just a flat fee of $200.00 from our department to issue the permit. What that will do is allow us to review the plans to make sure the buildings are built and they are structurally adequate to resist any (inaudible). The building permit fees for the enclosed, detached, shop, storage type structures over 2,000 square feet will be calculated based at $20.41 square foot. Then building permit fees for open, detached accessory type storage structures over 2,000 square feet will be based upon evaluation of $13.86 square foot. Steve is showing photos of sheds up Seeley Swan area that have collapsed with the weight of the snow.

Deb Evison: What we’re seeing is a lot of people coming in with kits that they’re purchasing online, these are kits that they’re purchasing from back east where they don’t realize that they’re going to be put in a seismic area or they don’t understand what the snow load capacities are for where they’re going to be constructing them. We have a couple where people have purchased these buildings and then we inform them that they need to make sure that it meets our engineering standards here and they try to get that information from those companies back east and their in a big uproar about that because they’re just not designed for this area.

Chair Landquist: I’m stunned because I have a friend who just like you said, purchased one of these as a kit, I don’t know from whom but somewhere locally and they had some ideas of how to put it up differently. I was begging her; please go down and talk to our building people and make sure you know what the code is.

Steve Hutchings: We’ve basically cut our fees less than half up to that 2,000 square foot threshold. If you were to build one of those structures say 1,800 square feet, it would be roughly about $700.00 for the building permit and then the plan review fee on
that would be 20% of the $700.00, plus the zoning fee. So the $200.00 is very minimal and that would probably just barely cover the cost. We’re not here to make a profit; we’re just here to make sure things are built properly and safely.

**Commissioner Curtiss:** On our website do you have information available on how to secure these sheds during wind storms and such?

**Steve Hutchings:** No.

**Chair Landquist:** Do people selling those buildings let people know that these have to be anchored?

**Steve Hutchings:** I don’t know if they’re aware of all the potential problems or not. I know that there was one that we had a permit for out in Clinton and it was very specific on there that it was only good for snow loads up to 30 lbs. and the snow load out in the Clinton area is more like 50. I talked to the engineer who actually designed this one and he said, absolutely they can’t use that in the higher snow loads, we have a different design for the higher snow loads. So the people had to do remediation on this one and it’s just a little one, I think a 12x16 ~ 192 square feet.

**Commissioner Curtiss:** I think you guys should think about doing a program on MCAT that’s informational. MCAT is there to do that kind of thing; they’ll help you do that. I think it would be great information for the public to know whether you’re building a greenhouse, a dog house, a chicken coop or storage shed, you don’t want that to happen. You have some great examples, I know you do I’ve seen them. Things that have happen and if people were a little informed they might be able to avoid. It’s a good venue to use.

**Chair Landquist:** I don’t know if it’s a question of talking to the people that are selling the buildings or like Jean said putting some information out there. They still have to comply with the land use permit, right?

**Steve Hutchings:** Correct, yes.

**Chair Landquist:** So maybe that would be one of the places we could make sure that information is available for the public?

**Steve Hutchings:** We could put something on our website basically giving people heads-up that all of these buildings are exempt. This would be recommendations. There’s so many ways to anchor them down it doesn’t have to be a big concrete foundation.

**Commissioner Curtiss:** Deb, could you go back to the definition of what this detached accessory storage structure is?

**Deb Evison:** Proposed definition for the 200 square foot. The proposed definition change would be the one story detached accessory structure uses a tool and storage shed, playhouse and similar uses providing the floor area does not exceed 200 square feet is exempt from building permit.
Commissioner Curtiss: Okay, how about the one that’s 201 square feet?

Deb Evison: It would just be what we consider a detached accessory storage structure and it’s based on whether or not it’s open or not. So we have a different definition for where or not it’s enclosed. So if it’s over 2,000 square feet, if it’s enclosed then we would have this calculation fee.

Commissioner Curtiss: Because you’re going to have more inspections for those kinds of things?

Steve Hutchings and Deb Evison: Correct.

Commissioner Curtiss: The stuff that you gave us earlier on as we had this discussion you had a more complete description that it include stick built pole barn kits structures, not insulated, it’s not heated, it has no fabricated floor, it’s not a garage, I think it should also say includes Ag buildings. It just needs to be more clear because there’s still going to be people who think...just because we took the Ag exemption piece out now they’re going to think; good I don’t have to worry about that at all now. I just think we need to be pretty clear of what we expect to be. Or the other would be to say only sheds are exempt.

Deb Evison: I think that was our intent that only sheds are exempt at this point if they’re under 200 square feet and if they’re over that, if they’re between 200 and 2,000 then it’s just the flat $200.00 fee. It doesn’t matter than what they’re building.

Commissioner Curtiss: This isn’t a garage though?

Steve Hutchings and Deb Evison: Correct.

Commissioner Curtiss: A garage is a whole other thing so that’s why I think that it’s important to define what it’s not or what it is. Seems like it was easier to define what it was not. That it was insulated, that is was not heated, that it didn’t have a floor whether it be concrete, wood, asphalt or paved. It’s not a garage and I think it should also say it’s not an Ag building. But it would include stick built, pole barn kits. Otherwise people are going to look on there and say I don’t see my stuff so I must not need anything.

Steve Hutchings: We could include a definition portion in the proposed resolution. And I agree because based on some of the pictures that Deb had, obviously there are some people that thought they were building an Ag building and it really was a garage.

Commissioner Carey: Somewhere in there it mentioned playhouses, if we don’t do anything about permitting that, I could see little kids playing in it and then maybe the roof falling in. Are they pretty much on their own if it’s 200 square feet or less?

Commissioner Curtiss: And they have been except it was 120 square feet.

Steve Hutchings: The similar uses are where you always run into the grey area. And a structure you just can’t get that many people in there, you just can’t load a building like that with many people.
**Chair Landquist:** Jean, you have a few tweaks? I think we have the opportunity here to send a clear message and I guess one of the questions I have for you folks since the room is not loaded with people from the building community or the consultant community or the realtors. Has this stuff been presented to them? I know in the past we’ve made small changes and they said they didn’t know about it. Has it been run by them?

**Steve Hutchings:** Deb and I met with the building industry association; we had about the same amount of people in the audience at that meeting as are here today. I think three builders actually showed up. We advertised in advance. We also met with the Missoula Organization of Realtors as well; a little better showing there but there were only five realtors at that. So we have made the attempt to try and get the information out.

**Commissioner Curtiss:** Did you send any information out to your regular builders that come in and get permits?

**Deb Evison:** We did not, but we did tell folks that come in and ask we let them know that this would be changing; this was something that we had proposed to change. I did hear personally from Nick Kaufman at WGM, as well as a few other people about the change that we’re proposing and what it would entail and how it could affect certain projects. MOR did put the word out and I know at MDIA has a news list of their organization that they got the word out to those people, so we did have a few calls and questions about it. We were actually expecting more people here to show up.

**Chair Landquist:** Until they want permits like this and then they find out that things have changed they’re going to come complaining. I don’t know how to avoid that other than that’s what I was trying to do when I encouraged you guys that last time we spoke of this, to get out there and vent this with then.

**Deb Evison:** I would say in the last two weeks we probably had 2 or 3 Ag exemptions; people knowing that this was going to change came into our office and applied. So word is out.

**Chair Landquist:** Thank you that was probably one of my biggest concerns that the public knows that this is going on and let this show that we are trying to operate in a transparent and honest manner.

**Public Comment**

**Andy Hayes:** Some of you may know me, I’m not here to speak for Open Lands Committee, I’m on the Open Lands Committee, I’m also a member of the Evaro, Finley, O’Keefe Community Council. I’m here to speak as a poor farmer trying to make a living on a couple hundred acres in Missoula County. I’m having a real hard time with the agricultural exemption portion of this and the fact that if I want to build a hay barn, a simple pole hay barn, which we have one or two on our land already or a pole equipment shed that has a dirt floor and it has open walls, now I have to come to Missoula County and get a permit for that and pay $200.00. I understand buildings can collapse and I’m sure there’s plenty of examples of buildings that have been inspected and permitted that have also collapsed. I also know there’s tons of information on
building proper agricultural buildings on the internet and with you and Missoula County’s help we can have better information. But I guess in the end I’m speaking against eliminating the agricultural exemption for agricultural buildings that are not inhabited. How much time do we spend in our hay shed? Only a few partial days a year putting hay in it. How much time do we spend in our equipment shed? I go there once a week and get a piece of equipment out. I don’t have six kids in a playhouse, I have nobody there. To me it’s going too far, I have some problem with the County and County Government trying to look over every single thing that every farmer does and I’m appalled at the fact that there isn’t 20 farmers here, including Brett Deschamps and people that could speak louder and better than me.

**Annie Hyser:** Community Food and Agriculture Coalition. In response to your comment about how people found out about this; we found out that this was going through because somebody came in to get an affidavit for Ag exemption last week and found out that it was going to be disappearing and then emailed us and said do you know this? Do you guys want to make comment on it? I called and talked with Steve for a while and talked about some of the changes that are being made and what-not and he was very comfortable. Unfortunately, it’s just not something that we can support.

Read letter that was submitted from the Coalition.
The other thing that I wanted to add; I just pulled this up because it’s not really so much about the fee; $200.00 is like you said, less than half, right? But it’s that when you submit an application you have to submit an impact fee application, a complete signed site plan check list, three copies of completed building plans, four site plans, two signed energy compliance certifications, a signed fair housing acknowledgment and certification and affirmation for a photometric drawing.

**Steve Hutchings:** Those are City requirements.

**Chair Landquist:** Okay for the record clarify what she just said.

**Annie Hyser:** I would love to know what it really does require because I’m really not that surprised that the building industry association didn’t have a problem with this because in theory and with the Ag exemption a farmer could just build his or her own structure. With a building industry with having to go through a permitting process, they’re going to have site plans; they’re going to have to have a building plan theoretically. It’s more about that you have the whole process; you have somebody coming out to the property to inspect the building. It’s a more owner process in general to put up a simple greenhouse.

**Chair Landquist:** What would this require and at what cost?

**Deb Evison:** For the record; for a building that would be over 200 square feet but under 2,000 square feet it would require a site plan because that’s always been required for your land uses or compliance permit. That’s not something that we require as a building division, that’s something that CAPS requires so that is something that has always and always will be required as one site plan. We also require one set of plans depending on the structure, if it’s greater than 10 feet tall it requires engineering on that because of wind shear and then they would have to determine what the snow
load is on that as well, that’s it. We don’t require res check because it’s not a heated structure, we don’t require any of the other things that she’s mentioned. It would just be structural plans as to how it’s going to be built as well as a site plan and that’s it.

**Commissioner Curtiss:** I did go online and look at a couple other places in the country as to what they said in regard to agricultural buildings. Looks like most places are pretty strict about that it’s really used for Ag. Clark County Washington, which is Vancouver, says an Ag building is a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. Not a place of human habitation or place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public. They make you sign a thing similar to what we have.

**Chair Landquist:** What’s the penalty if you’re caught changing it, does it say?

**Commissioner Curtiss:** I don’t see any penalties.

**Chair Landquist:** I think some good points were made here. I don’t think you can like my parents used to say; well you want your cake and you want to eat it too, yes I do! I do want Ag to be alive and well in Missoula County and making it more difficult for them, for Ag people just because there have been a few bad apples ~ I say nail the bad apples. I’m tired of paying the price for people that are breaking the law like it’s nothing; I don’t think it’s fair to our Ag people that we take this away from them. I like some of what we’ve done on some of the other buildings as far as some of the smaller storage type buildings, making it possible to get some of those without some of the owner’s restrictions. But I think safety wise we need to make sure that they’re getting their appropriate snow loads and stacking their buildings down. I am one Commissioner that is still struggling with the Ag bit.

**Commissioner Curtiss:** We’re the ones that told them to come up with some of it because we also didn’t really like the fact that people were signing affidavits and putting things on their deed that said it was an Ag building and then they were using it for something else or sell it and somebody else wants to use it.

**Commissioner Carey:** Do you think hefty fines would help?

**Chair Landquist:** I don’t know and maybe having this discussion here...I don’t want our staff to feel like we’re sitting here throwing them under the bus, that’s not what we’re trying to do. Maybe the fact that we are discussing this here might provoke a broader dialog on this and get people’s attention? Then maybe perhaps, like what the City just went through with a topic they were wrestling with for weeks or however long it’s been with the ADU’s and they decided to go through three readings of it and worked on it in-between. Maybe with public input similar with what we have here today, maybe we’d end up with a better product? I don’t think this is to anybody’s benefit to tweak something and then go a week or a month from now say; I wish we would have done this or added that, we can’t overly tweak a document I’m just thinking maybe more time. Just like Jean Curtiss was just showing what some other places were doing and I’m sure our County Attorney’s will have to weigh in as to what’s doable. I know that the Surveyors don’t like things muddying up survey documents and I don’t know where
things go on a title that would full-proof this. And I think the realtors for sure also need to get educated on this so that when they’re taking a property that somebody wants to list with them, that they get their ducks in a row and understand what the person is trying to say that they have. And that the realtors and title companies know where to go to do their homework because I think that’s…please don’t hate me for this I’m talking to all of my realtor friends out there because I do have friends in the realty and building businesses, but there are others out there that don’t know how to do their homework either and are perpetuating this problem and that’s part of what we’re trying to solve here too.

**Steve Hutchings:** Jean was reading that definition of Agriculture, that is verbatim the definition is in the building code we have. So our definition would be the same. Just so you know what they’re talking about there; like say the Caras Nursery, those are Ag buildings that are open to the public.

**Commissioner Curtiss:** They’re not exempt.

**Steve Hutchings:** Correct.

**Commissioner Curtiss:** So if you’re going to build a greenhouse to grow things that you’re going to sell at the farmers market, under the current regulations it would be treated differently then if you were going to build a greenhouse that you were going to have people come to your place to buy them.

**Steve Hutchings:** It’s a pretty grey area there. There was a gentleman in our office just last week that was submitting for an Ag building, he has one Ag building on his property presently so he’s submitting for a second one. What he does is he raises flowers to sell at the Farmers Market. Technically if he’s just growing flowers in the greenhouse and cutting them, I don’t think there’s an issue but if he’s doing any type of packaging, processing or something…is he working in there? That would probably be something for the Attorney’s office.

**Commissioner Curtiss:** Well if you’re growing something in the greenhouse, then you’re working in there.

**Steve Hutchings:** But you’re in there for a very limited time. The intent is that someone’s not in there all day working, working a whole shift.

**Commissioner Curtiss:** To me the difference of whether it’s you or whether you hire people to help.

**Steve Hutchings:** I agree. That’s where it says it can’t be a place where people actively work a shift or where people are employed. You could hire someone to work in your private greenhouse then you would basically go outside the realm of that being an exempt building then.

**Commissioner Carey:** I wonder if we could take a little more time to see if we could address some of the concerns we’ve heard.
Commissioner Curtiss: It might be that we don’t want to…I think it’s great to add this new category but I also think we may want to still have an Ag category. I also wonder do we have fines now other than the fact if you don’t get a permit you pay double or something?

Steve Hutchings: We have probably fined no more than a dozen people in the entire seven years that we’ve been operating.

Commissioner Curtiss: Because we try not to have to do that.

Steve Hutchings: I don’t want to be a cop. That’s not our intent. Our intent is just to promote safe construction practices.

Deb Evison: If I may, the State does have a definition for Ag exemption in the MCA but it says that you have to have 160 contiguous acres under one ownership in order to qualify for it.

Commissioner Curtiss: But that’s related to the tax code.

Deb Evison: No it’s also related to building, as well.

Chair Landquist: So would that still apply if we implemented what you brought before us today, as far as the State’s code for 160 contiguous acres? From Ag exemption that would go away?

Steve Hutchings: There is no acreage tied to the County’s Ag and that was one of the other reasons why it’s been abused.

Chair Landquist: But if that’s the State Code, we haven’t been following the State Code?

Steve Hutchings: That’s for buildings that are in the State’s jurisdiction. Local jurisdictions can make any of the codes that are exempt from State…for example, the State exempts pulp mills from their mines; builders on mine property, pulp mills, Ag buildings those are all exempt from the State building code. The only thing that’s with the Ag building it has to have the 160 acres attached to it before they consider it the bona fide Agricultural used for exemption purchases from the building code.

Commissioner Curtiss: Most farms in Western Montana aren’t that big.

Chair Landquist: I hope you can realize how much I am wrestling with this because I see this as sort of a double edge sword in some regards. As an Ag operation changes and a person wants to convert that building to something else, if it had been permitted and reviewed then it would be much easier to change that into something else and have it be safe. And I do know of someone in Missoula County who has a barn on their place and just not too long ago telling me, “oh we’re going to convert this one to a little country store, etc.” I said “really and how are you going to do that? And who are you going to see about getting permits for that?” I started playing devil’s advocate with him and I was saying, “no, you better do some more homework before you put too much of
your time and money into this project because you may find out you may not be able to convert your barn into a country store to sell the goods that you’re raising here on your place.” So some of the things that you showed us like the one that they built under an Ag exemption and now this person wants to come back and convert it to an apartment or whatever, so I can see the benefits but I can also see the negatives for the people that really, truly want to and need to build those Ag buildings and every little penny adds up in an Ag operation. I really, really do appreciate the time and effort that you guys have put into this and I know that we’re kind of the ones that stirred this baby up but I think it needs a little more time. Hopefully there’s more people that may see this or some other way we can get the word out to the Ag community or Ag people and to the MOR and MDIA and I guess I feel a little more comfortable with…not that I don’t trust you guys, it’s not that I don’t trust you but the public needs…

**Commissioner Curtiss:** They’re gonna say that they weren’t informed.

**Chair Landquist:** They’re going to say they weren’t informed. This at least gives them another opportunity to know. We discussed it and it’s kinda like last call at the bar.

**Commissioner Curtiss:** Madam Chair I would move that we recess the hearing.

**Andy Hyser:** Speaking of last call at the bar ~ I guess what I would say is the only reason I knew this was coming up is I happen to be on an email list from CFAC. I read the Newspaper, I read all the meeting stuff that’s going on and I just think this has gone over the top of 90+% of our Agricultural peoples head. So I support you waiting and seeing if we can notify people better of this process.

**Executive Session**
Commissioner Curtiss made motion that the Board of County Commissioners recess the hearing and continue it at the next BCC Meeting May 22, 2013. Commissioner Carey second the motion. The motion carried a vote of 3-0.

8. **OTHER BUSINESS**
None

9. **RECESS**
Being no further business to come before the Board the Commissioners are in recess at 3:21.