1. CALL TO ORDER
Commissioners Present: Commissioner Michele (Chair) Landquist, Commissioner Bill Carey
Commissioners Absent: Commissioner Jean Curtiss
Staff Present: Jim Carlson, Director Environmental Health, James McCubbin, Deputy County Attorney, Steve Niday, Public Works Land Surveyor Manager

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS
Chair Landquist reminded everyone of the Winter & Holiday Exhibit at Fort Missoula.

4. PUBLIC COMMENT
None

5. ROUTINE ADMINISTRATIVE ACTIONS
Current Claims List ($1,239,372.12)

Executive Session
Commissioner Carey made motion that the Board of County Commissioners approve the Current Claims List in the amount of $1,239,372.12. Commissioner Landquist second the motion. The motion carried a vote of 2-0.

6. HEARING (Certificate of Survey)
O'Keefe (Brian) Family Transfer (11696 O'Keefe Creek Blvd) ~ Postponed to a later date.
7. **HEARING**  
Motor vehicle Wrecking Facilities License Application (Lemeza, 9305 Futurity Drive)

**Jim Carlson:** State law provides that the Commissioners may hold a hearing on a vehicle recycling yard license. The Commissioners have elected to hold that hearing. A complete application has been submitted to the Department of Environmental Review. We have no concerns about the application or the location, with the exception of the fact that Futurity Drive and most of the Missoula industrial park is unpaved. We of course, would like to see cooperation in some future paving SID because those streets are of a high clay content, there’s a huge amount of carryout from those streets out onto Old Hwy 10, which is then re-suspended from higher speed traffic. In addition to the fact that it’s very dusty on those streets in the summer time, just on the local basis.

**Chair Landquist:** Didn’t we some time ago approve a recycling application, I think for Pacific Steel, out in that same area and basically did so with the conditions that they waive their right to protest an RSID for road improvements or something?

**Jim Carlson:** They said that they would cooperate in an SID. I don’t think we have the authority to require as a condition of this license.

**Chair Landquist:** Why wouldn’t we?

**Jim Carlson:** Because it’s not provided for by state law, which is the basis for state rules, which are the basis of this hearing and this license.

**Chair Landquist:** Okay but we could ask that they….

**Commissioner Carey:** Could DEQ condition it or something?

**Chair Landquist:** He’s saying we can’t condition it.

**Commissioner Carey:** No ~ DEQ.

**Jim Carlson:** I don’t believe they can either. I’ve asked the question about it actually more directly pertinent things dealing with vehicle wrecking yards and they’ve said no, unless they’re in the rules or in the law we cannot condition them. However, we continue to bring this to the Commissioners and the Public Works Department. And yes, you’re correct there are a couple of approved licenses in that area that have not been acted on. And there’s at least two or three other active licenses in the area.

**Chair Landquist:** We do have one of our County Attorneys in the room; maybe he could answer the question. If we chat with the applicant and have them agree on the record that they would cooperate, when and if the opportunity came to improve that road. Would
something like that carry any weight knowing that we have it as a portion of this record for this approval, from this meeting?

**James McCubbin:** I’d recommend against going there because we really don’t have the legal authority, it’s not connected tightly enough to do a condition. You can certainly express that we’d appreciate that in the future but I don’t think we can do anything that really will be binding.

**Chair Landquist:** Okay, thanks. Commissioner Carey, do you have any questions on this?

**Commissioner Carey:** The action today is to have the hearing but not to make a ruling on whether or not to okay it? Or where are we in the process?

**Jim Carlson:** Yes, to hold a hearing to hear public comments and of course at the end of the hearing you can choose to (in auditable). I’m sure DEQ would like to get the Commissioners responses as soon as they can. This application has been in for over a month.

**Public Comment**

**Ivan Lemeza, Applicant:** I would like to answer any questions, if you have any.

**Chair Landquist:** Have we seen this particular one before?

**Ivan Lemeza:** This is our first one.

**Chair Landquist:** And you plan on being a good neighbor out there?

**Ivan Lemeza:** Yes, of course.

**Chair Landquist:** What do you plan on doing out there in wrecking vehicles? Stripping them? Sorting?

**Ivan Lemeza:** Stripping them and selling parts off, eventually crushing the cars. Just kind of like recycling for car parts.

**Chair Landquist:** How are you going to deal with the crushing and so on as far as shipping it out?

**Ivan Lemeza:** Pacific got approved a couple lots down from us so we talked to them and they said they would be opening up shop here in the next year or two. So for us we don’t have to drive all of our sheet metal and all of our scrap too far because it’s right there on the same street as us, just a dead end.
Chair Landquist: Oh, so you can just take it to them?

Ivan Lemeza: Yes, just take it to them. And eventually if the business goes well, we might end up getting our own crusher. That's all in the future.

Chair Landquist: How familiar are you with that area?

Ivan Lemeza: I just know that we were looking for something zoned for this and just basically that it is zoned for what we're trying to do. Besides that, we're really not familiar with that area.

Chair Landquist: Did you understand the concerns that were brought to our attention by Jim Carlson?

Ivan Lemeza: Yes, we understand that.

Chair Landquist: Because of the dust in that area out there and the winds that carry all that dust, once that’s opened up for more businesses the dust is liable to be even a bigger concern.

Ivan Lemeza: One thing we take note on is that we’re on a dead end street so we’re not going to have as much traffic as all the other streets out there that loop around. We just have maybe 10 lots in the cul-de-sac so it would be nice to get something paved but it all depends on the details of that.

Chair Landquist: So are you familiar with what one of our mechanisms that we have for getting streets paved is to create what’s called an RSID that stands for Rural Special Improvement District? That entails involving all the properties and there owners in this district that help pay a little more in taxes to improve that road, to fray the expenses of that because the county just doesn’t have an endless pot of money to dip into to do that sort of thing. You’re familiar with how that works?

Ivan Lemeza: I’m a little bit familiar with all that; is it just all the neighbors have to veto right or is it the majority of them?

Chair Landquist: Generally the majority of them but there’s some speculation that that may or may not still be the way it works based on some court cases….a recent court case. As far as the people that would be able to protest, the number amount of people be able to protest to stop something like that from happening. James, do you want to explain that any better than I just did?

James McCubbin: Sure. Current statue allows the County Commissioners to establish a rural improvement district. The process for that allows the property owners that would be
assessed in the district to submit a protest and this statute states that… I believe the protest amount is 50%. So the statute says that if 50% or more of the property owners protest the establishment of the rural improvement district then the improvement district can’t be established. However, just a couple months ago the Montana Supreme Court in a court case that Missoula County was involved in ruled that a protest statue for zoning, which had similar language, was unconstitutional. So I think there’s a serious question in the law as to whether the protest provision for improvement districts remains valid or not. That’s something that somebody, somewhere, some jurisdiction will have to face legally at some point in the future.

Chair Landquist: Okay. So that may or may not still be the way they work. What is this… Jim, maybe you can answer this, what is this letter regarding auto parts recyclers that was dated from December 3, 2013 that’s attached to this? Does that have any bearing on this application that’s before us today? That’s what confused me and why I asked him.

Jim Carlson: I’m not sure why that’s attached.

Chair Landquist: I know that there was somebody out there about a year or two ago that wanted to come in for a license and it was problematic because they weren’t doing some things the way they were supposed to be being done. Does that have any relevant bearing on this one?

Jim Carlson: That facility is located the next street west, it’s not related to this application.

Commissioner Carey: So Jim, this is one of the cases where we’re acting on behalf of DEQ and whether or not to approve this permit?

Jim Carlson: You’re holding a hearing to receive public comment from the local population with regard to this state issued license, which we will subsequently inspect for compliance.

Commissioner Carey: Do we go ahead and authorize the permit?

Jim Carlson: Yes, you will typically pass a motion that says we recommend approval.

Commissioner Carey: Okay so it’s a recommendation.

Ivan Lemeza: Also in the process we submitted letters to all of our neighbors so we already had a 30-day period that they can write concerns. From my understanding, none of the neighbors had any issues with that.

Chair Landquist: Thank you and this has been properly advertised, that public notice is here.
Executive Session
Commissioner Carey made motion that the Board of County Commissioners recommend to DEQ to permit the operation of the motor vehicle wrecking facility at 9305 Futurity Drive in the Missoula Industrial Park COS. Chair Landquist second the motion. The motion carried a vote of 2-0.

8. HEARING and DECISION (continued from November 13, 2013)
Petition to Abandon Public Right-of-Way (Mullan Road, King Ranch)

Viewing was held Monday, November 18th by Steve Niday and Chair Landquist.

Steve Niday: The Viewers Report concerns the Ockler petition for abandonment of a portion of Mullan Road through their property. The portion of the road as described in the petition to abandon was viewed by those in attendance. It is the opinion of the road viewers that this portion of road right-of-way, in access of 60’ in width, should be abandoned.

Chair Landquist: I signed that report, I agree with what we saw out there but there was a conversation that I wanted to have on the record here regarding what we did look at out there. Not only for the purpose of clarifying things but for the purpose of reaching the public out there who may know some information that we may need. When we were looking at what was being requested to be abandoned and so much of this has to do with the pedestrian/bike pathway that’s going in along Mullan Road we noticed a couple memorial markers. It seemed pretty intuitive that a couple people lost their lives there. They were pretty well marked; one of them had a cross and wreath on it and one of them had a cross and the name was falling off of it but it was named Eric. I asked you how that was going to fit in with the pathway and you did not know at that time but you said that you would find out. For the record and for the people out there in TV land that might be able to help us, could you tell us what you found out about that?

Steve Niday: I brought the issue to the Public Works Department employees that are responsible for designing the walkway and monitoring the construction; they were aware of the crosses and had intended to set them at the backside of the walkway when it was completed. I asked them if they knew the deceased, who the deceased were, they said no. I told them based on your recommendations that we look into it a little farther. They agreed that they would attempt to determine who perished there and try to contact any relatives and find out if those relatives had any desire to do more then what they had envisioned by just resetting the crosses. I suggested as in other cases like this, there’s been an opportunity to have a bench and a plaque placed there.

Chair Landquist: Like what was done towards East Missoula, right?

Steve Niday: Correct and I brought that specific case up as an example. They said that there wasn’t any money in the budget for that and I suggested that if they were to get in contact with the relatives and ask them, maybe they would be forthcoming with some funds. But at least consider designing a place for a bench, if those funds became available. They agreed and are attempting to locate those people.
Chair Landquist: I would think MDOT or somebody should know when those crosses get placed, they're in a roadway easement, somebodies got to have a record of that. I'm glad that you had the conversation you did and hopefully for any viewers out in that area or even this area, friends or family can come forth. Who should they contact? Can they contact you and you can send them in the right direction?

Steve Niday: They can contact me at 258-3878. I suggested that they start by contacting the Ocklers who own the golf course there and just see if they had any local knowledge of what took place there. There must have been an accident of some kind. And if that comes up blank, I suggested talking to some of the other local residents and that's what they're going to do.

Chair Landquist: Thank you Steve, not only for the viewer's report but for the way you handled this sensitive item at my request.

Public Comment
None

Executive Session
Commissioner Carey made motion that the Board of County Commissioner approve the petition to abandon the public right-of-way along Mullan Road as described in our Request for Commissioners Action (RCA). Chair Landquist second the motion. The motion carried a vote of 2-0.

9. OTHER BUSINESS
None

10. RECESS
Being no further business to come before the Board the Commissioners are in recess at 1:57.