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: Shyra Scott, Supervisor Clerk & Recorder Division, Karen Hughes, CAPS, Deb Evison, Public Works, Tim Worley, CAPS

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS
   Commissioner Curtiss: If you live in the City be sure you’re registered to vote.

   Chair Landquist: Lolo School District ballots have gone out. The school is asking for a yes or no vote for building a new school.

4. PUBLIC COMMENT
   Jeffrey James Halverson: I opened my home to homeless people at no charge. Sent email Sunday and have copies of written statements. I bought a commercial piece of property for auto lot.

5. ROUTINE ADMINISTRATIVE ACTIONS
   Bi-Weekly Claims List ($3,377,284.52)

   Executive Session
   Commissioner Curtiss made motion that the Board of County Commissioners approve the Bi-Weekly Claims List in the amount of $3,377,284.52. Commissioner Carey second the motion. The motion carried a vote of 3-0.
6. **HEARINGS**: Petitions to Annex Property into Missoula Rural Fire District  
   a. **6285 Larch Canyon Road (Croker)**  
      Shyra Scott gave report. There’s one land owner and they signed the petition. We also received approval from the Missoula Rural Fire District for the annexation.  
      
      **Public Comment**  
      None  
      
      **Executive Session**  
      Commissioner Carey made motion that the Board of County Commissioners approve the petition to annex property into the Missoula Rural Fire District. The property is located at 6285 Larch Canyon Road. Commissioner Curtiss second the motion. The motion carried a vote of 3-0.  
      
   b. **14159 August Ridge Road (Lange)**  
      Shyra Scott gave report. There’s one land owner who signed the petition and it’s been approved by Missoula Rural Fire District.  
      
      **Nancy Kay Lange**: I did get approval from Chris Newman, Missoula Rural Fire Chief and I was hoping to get annexed in the Rural Fire Department.  
      
      **Commissioner Curtiss**: Can you tell us where your property is located?  
      
      **Nancy Kay Lange**: It’s located off Sherman Gulch Road, which is an easily accessible road. Parts of our driveway have specific winter challenges but we are in the process of correcting those.  
      
      **Commissioner Curtiss**: So it’s off Mullan, up Kona off Big Flat and up Sherman Gulch.  
      
      **Public Comment**  
      None  
      
      **Executive Session**  
      Commissioner Curtiss made motion that the Board of County Commissioners approve the petition to annex this parcel of land on August Ridge Road as it has been approved by the Rural Fire District. Commissioner Carey second the motion. The motion carried a vote of 3-0.  
      
7. **HEARINGS**  
   a. **Proposed Reorganization Amendments to the Missoula County Subdivision Regulations**  
      Karen Hughes gave staff report. One of the first pieces was to suggest that we get things reorganized, reordered; so that as we go through a more comprehensive regulation change that it would be easier to track how that proceeds. We proceeded in the spring, late spring early summer to work our way through a public process. The types of amendments that are part of this process include modification of a few
definitions, insertion of some graphics to illustrate certain elements of the regulations; separation of multiple topics into single paragraphs or single sections. Relocation of the number of provisions to more logical locations. Insertion of cross references and purpose of intent statements, insertion of individual sentences that improve the functionally of the regulations, such as those that connect sections or concepts. And those that make implicate requirements more explicit. We also worked on reordering sections to flow from general to more specific. Then we did some conversion of written text to tables. We did a deal with a couple of minor state law changes. There were a number of opportunities for public comment through the process; there was a primarily draft which we provided for review. We did a number of emails letting people know on our email list, which includes more than 700 individuals and organizations and agencies, multiple opportunities to comment to find out what's happening in the process. We maintained a website throughout the process, we sent out notices in our e-newsletter. We provided opportunities for people to interact with us face to face through drop-in sessions and through some question/answer sessions, in Seeley Lake, Lolo and Missoula. The result of all that public comment…and we did receive a number of written comments was to develop a revised draft that we then submitted to the planning board for their review. They held a public hearing on August 6th and the staff report, which I think you had seen before is in your packets. They also received a number of comments subsequent to the publication of the staff report, which are included in your packets as well and the minutes from their meeting are in your packet. We received some comments from Steve Smith at the Surveyors Office who rightly noted that in particular the terms Registered Land Surveyor and Registered Engineer had been really shifted in the state law to Professional Land Surveyor and Professional Engineer. He also noted a couple of other minor changes, changes in the name of the department, the use of the term examining land surveyor. So he had recommended some changes, the planning board and staff both, we thought that those were good changes to make. The planning board’s recommendation is draft 3 – it was provided for public review on August 15th. We numbered the sections that changed with that review and posted that on our website and sent out notice about that. So today the review for the Commissioners is primarily to take a look at draft 3 and consider adoption of this proposal. Subsequent to issuing this draft, when we took a closer look at the subdivision and platting act, we realized the use of registered land surveyor and registered engineer is still used in the Subdivision and Platting Act as is Professional Land Surveyor and Professional Engineer. After talking with the County Attorney’s Office, we suggested a minor tweak to each of the definitions; Engineer and Surveyor to allow that the term registered and engineered could be used anonymously with professional engineer and similarly with land surveyor. That is attachment 5 of the Request for Commission Act (RCA). Ultimately what we’re seeking today would be approval of draft 3 with these changes. We’ve also in the resolution asked to have the ability to go through and do a final editing, formatting change, not to change for content but just to make we’ve got margins aligned and that if we see typographical errors we can go ahead and get those fixed. We have not received any public comment since the planning board.

Chair Landquist: You did have all those listening sessions and people did actively engage in them. Some of those folks did have some good changes.
Karen Hughes: Yes and we made a number of changes. Seems that we have mostly taken care of the issues that people have raised and many people are waiting for the next round of changes.

Chair Landquist: Which will be the time when we bring more things into compliance with the laws that changed.

Karen Hughes: Or address more substantively issues like road standards, wild land urban interface standards, riparian, any subject matter that people are particularly interested in during the coming year.

At this point, the way we have your hearing structure today is to first look at this set of revisions and then Tim will go through the subdivision for lease or rent revisions. One thought we had is that instead of adopting the resolution sequentially, adopting the Resolution with essentially as exhibit A. It would be this draft, with the minor amendments, assuming that there aren’t other amendments the commission wants. Then considering a Resolution to adopt essentially draft 3A, which would include the subdivision for lease or rent amendments and the minor amendments that you might want to hold off on taking action until we’ve done the public comment on both of those and just adopt the final Resolution, which will be the one that Tim provided in his packet.

Public Comment
Jeffrey James Halverson: Previously sued under the old subdivision for lease or rent act, as you all know and I did send you an email this week and I hope you all had a chance to read it. I definitely am for clarifying a lot of the rules and making it a lot easier for housing, for subdivisions, all that kind of stuff. I just wanted to make one big point; housing is a very expensive part of a lot of people’s income and when people spend lots of money on their housing, they have less money to spend in the local economy. The more money and more complicated that we make the subdivision process and the harder it is and the more expensive it is that gets tacked onto the price of every new home in Missoula. That means if 70% of their money is going to their housing and this adds $20,000 or $30,000, I trust you guys know all about the process a lot more than I do, and the fees that are involved. Bear in mind that every time we add a tax, every time we add a building permit, every time we add a requirement and extra fees to a house; that is one less dollar that individual is going to have to spend in our community and at our businesses. When we get so much in fees and cost of housing that’s why businesses are closing because their customers have no money to spend in the local economy. I’d also like to talk…is there going to be time for other public comment afterward?

Chair Landquist: Yes, we can give you a spot at the end.

Commissioner Curtiss: I’d just like to clarify that this is just reorganizing what we already have; it’s not changing or adding any fees.

Deb Evison: I know this has been an arduous process for the entire CAPS staff and meeting with the general public, I went to a couple of the listening sessions and I think they have done an exemplary job in trying to take one bite out of a giant elephant ear,
it’s going to be a big and daunting process but I think their professionalism and their dedication to it has really shown through.

Chair Landquist: Taking Karen up on her suggestion, essentially we’re sort of packaging these together so it’s one hearing on both of these issues. So we’ll move on to Tim Worley and start talking about the Subdivision for Lease or Rent.

b. Proposed Subdivision for Lease or Rent Amendments to the Missoula County Subdivision Regulations

Chair Landquist: I know originally that Subdivision for Lease or Rent started by being called Subdivision for Lease or Rent (SLR’s), then after the legislature did their thing, it became known as BLR’s or Buildings for Lease or Rent. Now I noticed we’re looking back at this and looking at it as SLR’s again, so what is it? We need to be consistent.

Commissioner Curtiss: This is taking it out because buildings for lease or rent are not the subdivision regs that’s why. So we’ve already adopted those but we have to take the references and that’s what Tim will get to…of subdivision for lease or rent so we have to officially take it out of our regulations.

Tim Worley: Showed PPT Presentation and gave update. Maybe it’s appropriate to start with some terminology since there is a little bit of overlap. First of all I’m going to be making multiple references to SB 324 which is the bill that created buildings for lease or rent review. Some folks expressed some concern that even that term by itself is a little bit confusing but as I use that term today I’m going to be simply be referring to review of multiple buildings on a parcel. The other term I’ll be referring to today is SLR which is short-hand for Subdivisions for Lease or Rent. I think Commissioner Curtiss explained it well that essentially what we’re doing is an extraction today, we taking out for the most part subdivision for lease or rent references in the subdivision regulations. You may remember on August 14th we had a hearing and we adopted the buildings for lease or rent regulations and those had a September 1st effective date. Now we’re in a position where the subdivision regulations must change based on the senate bill so what we’re doing, as Karen explained, is we’re bringing together the reorganization with the SB 324 required changes. Now we feel that there are some clarifications that should be made to the sub regs after the passage of SB 324, and that’s that we still have the subdivision categories of Mobile Home Park, RV Park and condominium subdivision. Some of our recommendations as far as amendments to the subdivision regulations include those sorts of clarification. One of the things that happened is that there was a fundamental change in the definition of subdivision. Possession, for instance, of a portion of a parcel no longer triggers subdivision review. And leasing or renting doesn’t trigger subdivision review either within the context of one single parcel. The way the legislature moved forward to achieve this is they struck from the division of land definition the reference to possession of a portion of a track. They went a bit further with the subdivision definition, they struck any reference to possession of portion of a parcel and they also struck any reference to leasing, renting or otherwise conveying a portion of a parcel. They also clarify that Mobile Home Park and RV Park subdivisions still exist as categories within the subdivision and platting act.

To summarize of where we are now on the 18th of September; looking at flow chart: The buildings for lease or rent process went to planning board as a special
presentation on the 16th of July. The Board approved the buildings for lease or rent regulations on August 14th and they're now enforced as of September 1st. We’re all catching up today on the 18th where we hope to approve the reorganized regulations with the SLR revisions. Planning Board had two motions for planning board, we said it would be good to have motion that approves these SLR changes to our current regs, we thought that was appropriate. But ultimately our goal is to see the reorganized subdivision regulations adopted. So we just have one motion for you today. There was public testimony that was given at planning board, that public testimony is summarized in your packet.

The recommended motion, and Karen might have some adjustments for it, is that the Resolution to amend the Missoula County Subdivision Regulations, including SLR provisions, I guess I could add in attachment 3A be adopted, and including changes related to land surveyors and professional engineers as amended by the Consolidated Planning Board and the Board of County Commissioners.

Public Comment
None

Executive Session

Commissioner Curtiss: I’m sure it was tempting for the public because it was tempting for me as you read through them to say; we should change this a little bit. To just focus on the reorganization but I think it makes so much sense to get it in a format that makes sense and now as we hire consultants and go forward with the updating of the regulations it will be a lot easier process so thank you to the staff, both staff that lead the show and those who commented.

Commissioner Carey: I'll echo that. Thank you.

Chair Landquist: I also want to say thank you. I know that we, the staff, have been working on this for a while and it does only make sense to get it as clear as possible and put like with like and things that need to be together before we move forward and start adding new laws into it. So thank you all for the work and time and working with the public, taking it through the whole process.

Commissioner Curtiss: Do we need to refer to the Resolution then? And is the Resolution that’s before us the right one?

Karen Hughes: The one that’s in Tim’s packet.

Commissioner Curtiss: So we don’t need to say that its 3A, exhibit A is fine?

Karen Hughes: Exhibit A is fine.

Commissioner Curtiss: And then with attachment 5 as presented today.

Karen Hughes: So exhibit A will be draft 3 plus (in auditable)

Motion:
Commissioner Curtiss made motion that the Board of County Commissioners adopt the Resolution to amend the Missoula County Subdivision Regulations including the Subdivision for Lease or Rent provisions as defined in Exhibit A, with all the necessary and editorial and formatting corrections. Commissioner Carey second the motion. The motion carried a vote of 3-0.

8. OTHER BUSINESS

Jeffery James Halverson: I have a ranch called Orange Acres and as you know I was sued by the county for creating a subdivision for lease or rent, as I let homeless people, disable people, veterans and people traveling the world on a budget come and stay free on my property, even though I wasn’t really leasing or renting anything, I just let them come and stay for free. I sent you an email this week and I just wanted to present you with some written proof as to my discoveries, if I may. First page is before I bought my property, I went to Tom and I asked everybody I could at the county, I said is my property a commercial piece of property, can I open my car dealership there? And I said is there anything wrong with the property, anything I should know? I did make that effort; I didn’t just buy some piece of land that was a residential and decide to put up a business I bought a commercial piece of property from there. So I wanted to present that to you. Second page is the COSA and the COSA is what was required for the septic tank, it’s on the property there. The highlighted second you will see there says no disposal system should be constructed within 100 feet of maximum high water level. You’ll also see where it says a few lines up from that that each parcel shall be used for a single family dwelling as well. I also want to note that at the very bottom it says; instructions for transfer of this property shall contain reference to these conditions. I will note that when I bought the property and purchased it through First American Title, they did not disclose anything of a COSA or any type of subdivision restrictions relating to that septic permit. My understanding is that it’s probably because a COSA can be changed. I also want you to note on the COSA this is an old style COSA, it doesn’t say anything that it can’t be used for commercial. It doesn’t say that it can’t be used for multi-family or for somebody to allow something else. They later changed the COSA’s to say to be more restrictive then they currently are. They changed them because these COSA’s didn’t necessarily hold up to well in court. Your fifth page there you’ll see a permit from the Missoula County Health Department and this was issued to the previous owners of the property, it was a bank repo when I bought it, this is the people who bought it before them. You can see here that Tom Barger in the highlighted section permitted the septic tank and the septic field within 60 feet of the irrigation ditch, which would be a violation of that COSA agreement. I just want you to note that even though when I bought the property and I go try to replace septic tank and the septic field, they’re saying now I have to move the entire septic field and I can’t use any of the old septic field at all because of what Tom Barger created. So this is evidence what I say of negligence on the county. I’m not sure why he didn’t require them to move it, whether he was just being a nice guy or if he had some other kind of influence but I do note that Mr. Barger is also one of my neighbors nearby too. I also will note that I wasn’t sued until after Mr. Barger had left the employment of Missoula County. I’m a little slow on figuring these things out but I think the reason why is either he knew he made a mistake or he knew he made an exception. So he never filed lawsuit against me, it was after he had left that the county filed lawsuit because they didn’t want to understand that he had…he didn’t want to bring it up that he had made a mistake. You also see in the next page is the same sewer permit, it says it’s for a commercial septic tank even though the COSA said
single family residential. This isn’t a case of me going and building a garage and then being sued because I didn’t get the necessary permits. I did all my homework, I did everything I could to make sure that this land was usable, was a commercial piece of real estate and it was a commercial piece of real estate as well before I bought the property and now the county’s coming back and saying; oh, we did something wrong so we’re going to sue you and make you pay to change it.

Commissioner Curtiss: If you look at special conditions it says fill in the pond and run a ditch through culvert on main 50 feet of the ditch and the septic tank 100 feet from the drainfield filled old septic tank. So did that stuff happen?

Jeffrey James Halverson: If you look at the last map that kind of tells you there, as far as I know the old septic tank was way in the back yard so it wasn’t in this area at all. And that’s the other question is now the county is saying I can’t install a drainfield on my property any bigger than what is already there. Their basically saying I can’t so much as add one bedroom to my home on 8 acres – they’re saying because of high groundwater. Well they filled in a pond to build the place to put the septic tank to begin with so they actually got rid of a pond. How would you not think that there would be some kind of groundwater there if you filled in a pond in order to put in a septic tank near that area or within that area? And it’s all downhill of an irrigation ditch, they never required groundwater monitoring before, for either one of these septic permits that were issued by Tom Barger. Why he didn’t require groundwater monitoring, I’m not sure. But then the county, of course, made me do groundwater monitoring for $560.00 and just as I… I don’t think I gave you the results of the groundwater monitoring in there but I’m sure they’re in my file somewhere, there was no groundwater, there was no groundwater and as soon as my neighbor turned on his flood irrigation and flooded his field, with 120,000 gallons a day, which is over 1 million pounds of water – it rain for 3 weeks without stopping, that water basically started shooting up on my property all over the place. It’s only for a couple weeks in the summer when they turn on the irrigation next door. I’ve had 3 fires with inside of my home, I’m sure you know how it is, I’m very thankful to have the green grass and irrigation that my neighbor gave me and there’s no health problems at all, the septic field still functions just fine. If that answers your question there? The second page, of course then again shows it again where he also once again violated the COSA and allowed them to reuse the same septic tank for again within 60 feet from the irrigation ditch, not 100 feet for a commercial use as well. Then of course the last page there is the state of Montana and it has commercial water rights on the property. Now I’m being sued and they want me to pay for very expensive COSA rewrite and they’re saying I can’t so much as add one bedroom to my home where I can let my friends stay, whether they be travelers or my own family or not, I think is my own business. And my building permit has been in suspension for over 11 months now. I really, really thank you for your time and I hope… I’ve done everything I can to try to work with the county. I’d like to sit down with all of you, if we could sit down with James McCubbin and the Health Department and talk about what I can do and how I somehow been responsible for what negligent…maybe Tom Barger was being a nice guy, he never brought this up when he was in his employ. Here I’d like to know because it seems like he knew about the problem beforehand and that’s why it was never brought up before. I’m just a person that came along, I found a piece of property that worked perfect for me, and it was exactly what I wanted. I actually shut down a tannery that was there, you would think that of an unhealthy place a tannery has animal fats and rotten animal carcasses and all sorts of stuff around it, you would think that the county would be ecstatic that I bought the place that was there. I
did everything I could and I did my homework before and now I’m being sued for just helping people for free. Thank you.

**Commissioner Curtiss:** I think it’s important to state that there’s a big difference between having a business that you have your employees using the restroom during the day and washing their hands and having people live there that they generate wastewater from doing dishes, from taking showers and all of that. Nobody’s told you can’t continue to run your car business there right?

**Jeffrey James Halverson:** No I have been. Actually I have a copy if you’d like to see, a letter from James McCubbin that says he’s going to sue me unless I proceed with the groundwater testing, unless I proceed with the COSA rewrite.

**Commissioner Curtiss:** On your car lot?

**Jeffrey James Halverson:** Yes.

**Commissioner Curtiss:** Just so you know the Health Regulations are adopted by the Board of Health, they’re not adopted by this Board and so I hope we can work it out too and that’s not so when you say that we waited until somebody retired to sue, I think it was more that we have a group of people, we try to bring the department heads together to work with folks and try to find solutions, lawsuits are not something we like to do.

**Jeffrey James Halverson:** Like I said, I was sued out of the blue. The letter that Tom Barger sent me before had no reference to COSA, had no reference to needing permits for the septic tanks, it had nothing to do with that what-so-ever. It was all regarding letting people camp and having trailer houses on my property...or camp trailers, I went to Tom and my exact words were; why can’t I have people park overnight like Wal-Mart and the truck stops do? And Tom Barger said no, you can’t, you cannot do that. I said well why can they do it on their commercial property and I can’t do it on mine? He said, you can’t have people in campers but you can take the wheels and tires off the campers and have sheds with a bed. He said you can have people stay in the community center. I did exactly what they told me. We spent 4 years building cabins that he said we can build on none permanent foundations and he said they had to be within 300 feet of the building. That’s exactly what we did, I only complied with the laws and I would just like somebody to work with us so we can drop this lawsuit so I can get on with my life, this has been going on for 2 years now.

**Commissioner Curtiss:** We’ll follow-up with staff.

9. **RECESS**

Being no further business to come before the Board the Commissioners are in recess at 2:16.