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CALL TO ORDER

Commissioners Present:
Commissioner (Chair) Bill Carey
Commissioner Jean Curtiss
Commissioner Nicole “Cola” Rowley

Staff Present:
Christine Dascenzo- Community and Planning Services
Tim Worley- Community and Planning Services
Steve Niday- Surveyors Office
Adriane Beck- Disaster and Emergency Services

PLEDGE OF ALLEGIANCE

PUBLIC ANNOUNCEMENTS

Fair is in full swing: 4H will be celebrating 10 years

PUBLIC COMMENT

None

CURRENT CLAIMS LIST

$3,805,945.30 (July 22, 2015 – August 12, 2015)
CONSIDERATION:

A: Buildings for Lease or Rent (5872 Legend Lane)

Presentation by Christine Dascenzo & Paul Forsting, Territorial Landworks:

Christine Dascenzo – For the record my name is Christine Dascenzo with Community and Planning Services and I will be showing some slides for this presentation. This is a proposal represented by Territorial Landworks who are representing Rebel Enterprises. It is a proposal for sixteen buildings on a site in southern Lolo and they are proposing the sixteen buildings they have also received a new mailing address so it went out publically as 5872 Legend Lane and then their new address is 13180 Highway 93 South. So throughout the presentation I will refer to it as both just for consistency. So the proposal is to build sixteen buildings, fifteen which will be for storage and one office building. Buildings for lease or rent were triggered because there are at least four buildings with more than thirty units in each building. The property is boarded by Highway 93 to the west, residential homes to the north, railroad to the east and an electrical sub-station operated by Missoula Electric Co-op to the south. It is 8.31 acres in size, unzoned and currently vacant of any structures and is outside the FEMA Map Floodplain. So here is the proposal the site plan and there is approximately give or take what the reality on the ground allows 663 units in total in the fifteen different storage buildings. The applicant has received a new driveway approach permit for the Montana Department of Transportation for access off of HIGHWAY 93 South. So that will be across from Caras Lane in the middle of the property and they are planning on abandoning this current approach to the North of the property. It is served by Missoula Rural Fire District, Missoula County Sheriff’s Office for emergency services. The applicant has planned to finalize septic and well permits from the Heath Department on a later date. So that would be needed for the office building which is not exactly essential to the project so if they are not able to receive those permits they will nix that from the plan. It did go out for public comment and agency comment and we received one comment from Robert Hayes a property owner at 5608 Legend Lane and his concern was about access off of Legend Lane which was a private road and the plans indicate that they will not be using Legend Lane for access and will only be using that new approach permit off of the highway. So we did not condition that and we will just check on that as permits are submitted. Agency comment supplied sort of standard things about applying for the appropriate permits that they should be reviewed and approved prior to construction and from the Health Department that groundwater monitoring and the appropriate permits shall be reviewed and approved prior to the construction of the office building. So we recommend the conditions for the permitting process, Public Works for building, electrical and mechanical and plumbing and also the groundwater monitoring, septic and well permits will be required before the office building is constructed and any land use permit for the construction of those buildings, all of the buildings on that site will be required. So we are recommending approval based on the review and there may be some people from the public who would like to comment and the applicant is here as well. So that is the end of my presentation.

Chair Carey – Thank you Christine. Any questions at this point? Would the applicant or the applicants’ representative like to speak at this time?

Paul Forsting, Territorial Landworks – Christine did a really good job at describing the project. I don’t really have anything to add at this point other than that I am available for
comments or questions. And Brian Walker is here also he is a member of Rebel Enterprises the applicant but let us know if you have any questions and we will try to address them for you.

**Commissioner Curtiss** - I have a couple questions for you. One - when reading this are there three buildings under construction because they don't have to have governing body approval?

**Paul Forsting** – Yes that is my understanding, they have an active building permit at Christine office for the first phase is what we are calling it, it's not really a phase but it is for what would be allowed without the subdivision.

**Commissioner Curtiss** - The other would be since I know it's going to have a fence around it but people don’t always pay attention in the future about accessing that private road so I wonder if we should put a no access strip along Legend Lane.

**Paul Forsting** - Well we don’t really have a mechanism to put a no access strip we are not filing a plat or anything.

**Commissioner Curtiss** - Oh that’s true.

**Paul Forsting** - For this project the site plan relies on that centered access and as Christine mentioned they will be watching every permit that comes in will rely on that access. In theory if we move the access this approval that we are hoping you will grant would be no longer valid. That is kind of the unique things about these buildings that are for lease or rent concept you kind of follow the building plan and if we deviate from it we know there will be a problem with the process. There is a 6 foot chain link fence around it purposed around this sight.

**Commissioner Rowley** – I have some comments but I will wait until public comment.

**Chair Carey** – Anybody else which to speak on this or any questions?

**Robert Hayes** – What I want to know is that any access or whatnot I told the guys that they could cut the fence and go in and do what they had to do but as far as the trouble is the railroad would require if turned into a public road flashers there. I have that in an agreement. And also it was deemed a public road by the Rock family and that was all it was. So that's the only comment that I want, all I wanted to know that they will close up everything and what not all the electrical on Legend Lane because I have no problem with them coming in and neither do my other two neighbors. Because that is a dead end of the road there Legend Land dead end and there is only three of us there. I just wanted to know that was approved entrance from 93.

**Commissioner Curtiss** - The application says that the permit has already been granted by the Department of Transportation so it has been approved.

**Robert Hayes** - Okay that is all I needed to know.

**Commissioner Rowley** - Being a Lolo residence I do kind of have problems with this coming into our community in that if you go back to our Lolo Reginal Plan from 2002 we identified this area as general commercial use and I know that that is not regulatory but many warehouses are not really outlined as general commercial use it lists things like storage for retail sale of farm retail equipment for like a tractor supply store things that support highway travel and community oriented use like shopping centers and professional offices, personal services, drug stores and
other retail services. We are bringing in mini warehouses. So I don’t really feel as a member of the community that it meets what our land use plan was and furthermore I don’t think it meets our community’s vision and that is my biggest sticking point I think. Here it says Lolo is a gateway to many nearby features, Bitterroot Valley Historical Trails, direct opportunities Missoula to the north, and we also identified the desire to have gateways to our community. Well if you have been through Lolo lately we have gateways to our community and they’re storage sheds. The ones by the grocery store, the ones on the 12 coming in and now these coming in from the Bitterroot valley. So I urge the citizens of Lolo who don’t want Lolo to just become a place to store your stuff, maybe to get behind a movement to look at what we can do in the future to stop things like this. I feel like our community is turning away from being a community and being somewhere for people to store their stuff. I would like to see more for Lolo in the future so I am going to be looking into going to the community council meeting and getting together their people to see if anyone’s interested in citizens initiating zoning or thing like that so we can have our land use plan see if we still agree with what we think that is and maybe put some regulatory mechanism into place so that we can have control over what comes into our community and what the gateways to our community are. One last piece that I will read from this, oh there is a couple pieces actually. It was identified that major detraction from the character of Lolo is the visual chaos created by the variety of signs, light poles, power lines and asphalt. These tend to distract from the view of the otherwise enticing uses beyond. And really what is purposed here is an area improved with asphalt, parking area, and a six foot tall chain link fence. That does not sound like an improvement to our community to me. And lastly I will stop with many residence expressed positive hopes for expanding enhancement of community character because they do not consider the area to be spoiled yet. This was in 2002 when this was written and I think these many years later we are getting to the point where we are going to have to do more to maintain the non-spoiled nature of Lolo. So hopefully, I can’t stop this state law allows this project to continue but I will work towards helping the Lolo community in any way I can and to prevent it from becoming a place just to store our stuff.

Chair Carey - Thank you Commissioner. Is there anyone else?

Commissioner Curtiss - I would like to ask Christine a question. Christine was this sent to the Lolo Community Council for Comment? It is not required.

Christine Dascenzo - It was not. It went to the surrounding neighbors within 300 feet.

Commissioner Curtiss – It is not required but it may be something we want to do. So I pulled out the buildings for lease or rent application review process that the Commissioner’s adopted a few years ago in response to changes in state law. I think the one piece that again this probably meets all of the regulations that are in place but we talked about the rent or lease of a building on a tract of land that may directly impact the property and its surroundings regarding vehicular access, public health and safety and the general welfare of the provision of public services, utilities and the physical environment. I think the one thing that we did not talk about is its impact on the community and its impact on the un-solidness and the impact on the identity of communities. We knew that in zone areas when an area in zoned it says it allows for any storage and they don’t even have to go through this process I think because it is exempt right? If it meets zoning.

Christine Dascenzo - Right
Commissioner Curtiss – And in this case it doesn’t because it is not zoned and it also does not meet what is suggested by zoning which is what Commissioner Rowley is talking about in regards to implementing that plan. I also have some concerns because traffic is already an issue. The Lolo Community Council has brought it to our attention that in this particular area especially it is still 55 right? Or does it drop to 45 right there?

Christine Dascenzo – It’s 55.

Commissioner Curtiss – So then you have Grandma and Grandpa who took their inheritance and bought a big old motorhome and they don’t even have to have a CDL to drive it and they are going to be pulling out on to the highway. So there are concerns, I know we have talked about traffic concerns previously in things like coffee shops. Where sometimes the whole flow of how people get in and out them can present a problem. Visually corners are good but access wise corners are awful. I do wonder even though it is not required whether we should delay the decision and allow the Community Council to give us some input.

Christine Dascenzo – And the community itself. I have talked to people and they don’t know what is going on out there.

Commissioner Curtiss – Some on the latest phone calls we have been getting from Lolo are what the heck is that new building going up by me.

Christine Dascenzo – There is no public input.

Commissioner Curtiss – So I mean again probably won’t change the outcome but it feels like we have not really gave the community an opportunity to tell up what they think about their community gateway.

Tim Worley – One thing you might want to do is just inquire of the developer as to whether he is amenable to an extension or not because I think we might be getting close to a 60 day deadline. Is that correct Christine?

Christine Dascenzo – It’s in September.

Tim Worley – Oh it’s in September?

Christine Dascenzo – September 17th.

Commissioner Curtiss – The Lolo Community Council just met last night, so that means next month. So I guess we will ask the developer if their or their representative if they are amenable just to allow the community to have a discussion instead of again calling us to say what is that.

Paul Forsting – I know that the developer is more than willing to get additional input. At a certain point you look at the application and you look at a piece of property and there has to be some expectation that some type of development can go there. The reason we are here today is because there are more than three buildings in the involved in this if there was zoning area it would tell you exactly what you could and couldn’t do. With places that do have zoning it is better to have that but in places you don’t you have to follow the regulations in place. The building for rent or lease regulation are put there in my opinion if you look at the history of them there are two establish a site that can work with the number of buildings on there. This is going
to have three storage unit buildings on it, is it going to exceed the thirty units I don’t know. Besides the functionality and looking at the review criteria that is in the application period in my opinion it meets all of those and we are not creating a safety hazard. I know that you had mentioned the traffic concerns, MDT takes traffic very seriously especially on places like this with the use. There is a center turn lane there at the site so they didn’t have the concern especially since we are willing to, they had already given us an approach on this site, and they are willing to relocate it. So they did not share those concerns with the access there given our proposed use of it.

**Commissioner Curtiss** - And yet just a few miles south a child was killed this year trying to cross the highway and turn left.

**Paul Forsting** - I understand that and those are emotional comments and we are lucky that we have the opportunity to go through a review where we can make sure that the highest level of care is being conducted. At a certain point when you put in an application and you work through it. Yes it is always, we can go ask more people, we can continue to open it up but at the end of the day people may not be in love with mini storage units but they are really a temporary use. They can be cleaned up the sight can be changed if there is a higher and better use for the area it can be developed as such. This area, for whatever it is worth, it does match similar uses on the other side of the interstate and generally in the area. We have got aerial, photos we could look across the street and there is what looks like a container yard for various storage items there. There are similar commercial industrial buildings around. That is generally what the category that storage units fall in. What we are seeing here is yes storage units aren’t this great new brewery or building and they are not what everyone wants to go visit but they are a necessary evil. With the apartment development beds being promoted in Missoula, if we are not allowed to build people have small areas to live they are going to have to store their junk somewhere. I don’t particularly love it, that concept, but that is what they do. They can live in a thousand square foot apartment building if they have if they have a thousand square foot storage area. And that is what we are seeing. You see a lot of it, again if this rule was not in place the whole sight would be under construction already. If it was one building it would be under construction regardless of what that is. If it is the difference between getting denied here today and not then we are willing to do whatever is necessary but speaking building industry in general there is a level of expectation and risk you do when you look at a sight and you want to move forward and when you keep pushing schedule. Although it is nice to get that additional input, it can really be hard on the people who are trying to invest in our community. With that I would say yeah if we absolutely have to go do some additional review I know that Brian would be available for that. He is already surprised to have this process be a requirement and we are working through it the best we can. In our minds we are behind schedule so we would love to move on with the schedule but we are open to answering anything else you have. I don’t know if Brian wants to add anything.

**Commissioner Curtiss** - So delaying this now does not stop the starting on the three buildings?

**Paul Forsting** - Those are going to move at the scheduled building permit allows them to. The sight has been cleared, the sight’s grading activity. They are going to use the whole site regardless of this fifteen, sixteen buildings or three buildings and it is going to be used. We would like for the efficiency standpoint use the whole site for their business.
Commissioner Curtiss – I think you made the point that we were trying to make. There is already a lot of this. If you drive into East Missoula, if you drive into Frenchtown, if you drive into Lolo, if you drive into Seeley Lake, they end up being because you can buy land cheaper that is where people often build these. They are a necessary part. I think some of them probably look better than they do. Of course out by the Wye there are a lot of them. In the development park there are several of them.

Commissioner Rowley - Which is a more appropriate place to put them than a gateway to a community?

Commissioner Curtiss - I just think that I will just throw this out to Tim because I know he leads that department as I think that the Commission should also consider mending our buildings for lease or rent to say that when it is going to come. There are exemptions and laws this one is not an exemption this one has to have governing body approval and it seems like what we should at least allow our Community Councils to provide us comment from the community that was being affected in the future so we can look at changing that.

Chair Carey – Would the Commission want to postpone a decision for let say a month?

Commissioner Curtiss - It would have to be the last week of September just because of some other scheduling things that we have in place and given the council time.

Commissioner Rowley - Would that alter the legality our legal ability to change our decision?

Chair Carey – I don’t think so.

Commissioner Rowley - So in that case I don’t know.

Commissioner Curtiss - So what it does however is it gives you the opportunity to have a conversation with your community about whether they think it is time to ask us to look at implementation or even reviewing their plan which is of course is all work plan and time and stuff too.

Commissioner Rowley - Right, which I certainly plan to carry on that conversation. But is it is not going to be able to change our decision then is there a reason to hold up the progress? Although I am against it, I think we legally.

Chair Carey - But it could be on the agenda for the next council meeting.

Commissioner Rowley – Yes I have spoken to them about getting on the agenda to start addressing these issues. On this project it meets all the legal requirements to be approved. I think we should probable vote on it.

Chair Carey – Any other comments, questions? No, we are good. Is there a motion?

Motion:

Commissioner Curtiss made motion to approve the request with conditions. Chair Carey seconded. Commissioner Rowley vote nay, opposed.
The motion carried on a 2 -1 v Vote, Commissioner Rowley opposed.

HEARINGS:

A: Petition for Family Transfer (Robertson Family Transfer)

Chair Carey – Next we have a hearing on the Robertson Family Transfer.

Christine Dascenzo – This is a consideration for a family transfer exemption affidavit submitted by Casey Robinson, represented by Greg Martinsen of Martinsen Surveys which both which are in the room today. Casey owns 2.97 acres in Miller Creek area located between Miller Creek Road and Lower Miller Creek Road. His proposal is to use the family transfer exemption to create one additional parcel to transfer to his mother Francis D. Robinson. The original parcel is 2.97 acres and he proposes to create a 1.33 acre tract in the southern portion and a 1.64 acre tract as the remainder. The southern family acre tract is for his mother as I said and if approved this tract would be accessed from a private access easement extending off of Lower Miller Creek here. The northern parcel would be accessed via a private access easement to the north through this connection here. The county land is zoned C-RR2 which allows two dwellings per acre. This would meet that. The parcel is interesting because it contains both city and county land. Today’s action would only apply to the county portion where you have jurisdiction. That portion has never been subdivided. So the parcel history that created this county/city parcel was a 2001 Fairway View Addition planned unit development that occurred where that boarder is. Then a 2007 boundary line relocation which took a parcel that was in that PUD and changed it to this boundary line. So that is the parcel that went through boundary relocation in 2007 to create the current configuration. It was reviewed for a subdivision evasion and one was triggered to divide a tract that was created through use of an exemption and like I said it did go through that boundary line relocation in 2007. Besides all of that we are recommending approval of the County portion of the family transfer. I have connected the applicant with the city and they are going to start to move forward on that process for completing before it can be filed, before the COS can be filed. They will go through their process. So it does not appear that the request is to evade subdivision we are recommending approval. At this time I would ask Casey to approach the podium and we will ask the standard family transfer questions. If you could state your name?

Casey Robinson - Casey Robinson.

Christine Dascenzo – Are you using the subdivision exemption process in an attempt to evade subdivision review?

Casey Robinson - No

Christine Dascenzo – How long have you owned the property?

Casey Robinson - 4 ½ Years.
Christine Dascenzo – Did you buy the property with the intent on dividing it?

Casey Robinson – No

Christine Dascenzo – Do you or your transferee’s intend to transfer the property within the next year?

Casey Robinson - No

Christine Dascenzo – Have you talked to anyone in the County about going through subdivision?

Casey Robinson – No

Christine Dascenzo – Are you in the business of building or developing property?

Casey Robinson – No

Christine Dascenzo – Do you understand that this exception is not being reviewed for adequate physical legal access by all vehicles in all weathers?

Casey Robinson - Yes

Christine Dascenzo – Do you understand that approval of this exemption does not mean the property is approved for zoning compliance, building permits, floodplains or septic systems or anything other permits?

Casey Robinson - I do.

Christine Dascenzo – Are you planning on developing either of the parcels?

Casey Robinson - Develop, you mean build a house?

Christine Dascenzo – Yes

Casey Robinson - Yes

Christine Dascenzo – And will the recipient of the property be residing on the property?

Casey Robinson - Yes

Christine Dascenzo – And where does the recipient live now?

Casey Robinson – Fairview’s neighborhood on Artemos, Here in Missoula.

Christine Dascenzo – That is all of my questions.

Chair Carey – Any further questions for Mr. Robinson at this point?

Commissioner Curtiss – Just one, are there any existing homes on this property now?
Casey Robinson – No

Commissioner Curtiss – The one you will access tract 2 through that private access is kind of a funny looking piece of property. So is that just a long road that gets down to access somebody else’s property?

Casey Robinson - Yes there is a cul-de-sac there that accesses five homes to the south. There are three houses past this property and two before it.

Commissioner Curtiss – My other question is for Christine. I always understood that we could not use family transfers on property that had been involved in a subdivision? Is that because it was only that one that had the boundary line relocation?

Christine Dascenzo – The County portion of the request has never been subdivided. In the future to make it happen we may go through what the City says on family transfer on their end but it may also include boundary line relocation.

Chair Carey – Any comments or questions from the public?

Motion:

Commissioner Rowley made motion that the Board of County Commissioners approve the request by Casey Robinson to create one (1) additional parcel on property described as Fairway View Addition, Lot A2 of Section 01, Township 12 North, Range 20 West, 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 Seconded the motion.

The Motion carried on a vote of 3-0.

B: Petition to Create a Public Road (Riverview Drive)

Chair Carey – Next up we have a petition to create a public road on Riverview Drive.

Shyra Scott gave staff report

Shyra Scott - It is rare that we see an establishment of a County road, typically we see abandonments. Our office treats the establishments the same as we treat the abandonments which is why you see in your RCA’s the reference to the MCA. The site growth abandonment procedures, so just a forewarning on that. So our office received a petition to establish a right-of-way on Riverview Drive located in Section 3, Township 16N, Range 15W, beginning of the westerly right away of Highway 83 and ending at the section line common to the sections 3 and 10. The necessary fees have been collected. Public notice requirement have been met. The petition contains the necessary signatures of at least ten or more of the freeholders within the Missoula County Road district. All lands affected by the proposed action, whether the owners can be found consent thereto, and whether consent where consent was not given the probable cost of the right-of-way are set forth in the petition.

Steve Niday - I am not sure what I am supposed to say here. Shyra presented the petition. We will set a date for viewers to go out and view the property and review the petition. Then
schedule a follow up public meeting at which time the viewers report will be presented. Additional public comment can be heard at that time. The Commissioners can then make a decision. I guess I am here for any question that anyone might have. I have offered my services to the affected land owners on a one-to-one basis. I can come to their property show them the limits of the proposed right-of-way; answer any questions that they may have. That offer still stands.

**Commissioner Curtiss** – I think it is important to add a little bit of background on this and Mr. Snavley can add to this but we have quite a few properties that are accessed by this road that has always been assumed to be a public road. I think this is a good solution.

**Don Snavley** – I represent a group of about eighteen land owners who own property west of the Clearwater River. It is accessed by this portion of Riverview Drive. I have been working on getting access to that land for over four years. This popped up towards the end when the County was looking on doing maintenance on the bridge over the Clearwater they discovered that the road had never been declared a public road. That kind of put a hook into everything because the Forest Service, the DNRC, I believe the County and all of my people assumed it was a public road. That is the way it has been. So it appears to be an oversight situation. I wrote letters to all of the owners along the road. I have received no negative comments on the public right-of-way. There have been some issues on road maintenance, berms being created on the driveway access. I referred those to Greg Robinson who seems to be dealing with them. Those are the only complaints and I think the County is dealing with them. Steve has done a good job on trying to keep the road at least a legal survey where it connects to all of the lots so there is no gap in there. The irony of this is that when we started out I was having problems with DNRC primarily and then the County was kind of butting heads with but to add a little extra flavor to it the US Forest Service got involved and the irony now is that the DNRC needs the access to get to their property which is west of ours. The Forest Service needs it. They did a big easement exchange cost share agreement that is supposed to get approved by the land board next month, starting at Lake Placid and going north of our properties. So a pretty big chunk of land that they are exchanging easements. So now the public will have access on that side because the Forest Service is going to have easements over all of the DNRC properties. Once the Forest Service has it then the public has it because the public has the right to use public land. Now they can shut it down for fire or grizzly bear problems but administrative issued they can’t permanently shut it down. This is just the last piece in a long puzzle. Ironically I was shocked when I had been on that road a number of times and just couldn’t believe that it was not public. If that is not a public road is there anything in Seeley Lake that is public road? So really no negative input, my people are very grateful to get to this point particularly for Commissioner Curtiss for her assistance in moving this along. We had a public hearing last month in Seeley Lake; I want to say fifteen people showed up, they were all positive. The biggest complaints that I am getting and one of the owners is here is just the time it is taking. This process seems to move really quickly, so we very much appreciate your consideration of this. I don’t see any down side as we say in the petition; there really should not be any compensation because everybody needs legal access to the property. This is how they are getting it without legal access they can’t sell it, they can’t refinance it. The detriment on the other end is just recognizing the way the property was when he bought it. So there is no down side it is all positive for everybody.

**Commissioner Curtiss** – This petition takes the right-of-way across the river a ways so there will be the question of the easement across the bridge for the DNRC because of the school trust land it will require a fee.
Don Snavely - Yes and I am dealing with that. Considering they need the access I don’t think I am going to have any problems that issue.

Steve Niday - I would like to bring up one issue that was brought up at our informal public meeting in Seeley Lake. Several of the land owners there suggested that the hearing be held at Seeley Lake to accommodate those land owners that most directly affected. I could not answer that question at the time so I am just bringing it up to the Commission for their consideration. I think it would make them happy but if it is overwhelmingly inconvenient I understand that too.

Rose Lockwood - I am here representing my son August Lockwood he could not be here as he is working in Seeley Lake. I have a question for the surveyors is that you? The cadastral maps show the lot lines for the various lot lines and parcels and there are gaps between them and I don’t understand why there are gaps. Because the question is who owns the gaps? Because all of the road and the snowmobile path, cycling path, that goes along the road are gapped except for the areas under two lots. One of which is my son’s lot and one of which is Kevin Wheatherall’s lot. So first question is who owns the gaps?

Steve Niday - I received these twenty minutes before this meeting from Dom. Your inquires along with an attached map. The attached map apparently came from a cadastral source. The lines are not accurately represented with the relation to the road itself. Your parcel and your sons parcel and your neighbors to the west the proposed right-of-way would go right along that COS boundary, so right along the legal boundary of your property as it is right now. So there would be no additional taking from your property. I think what may seem a bit confusing is the lines on a map that are not accurately registered to the underlined photograph.

Rose Lockwood - So what is COS?

Commissioner Curtiss – Certificate of Survey.

Steve Niday - So the right-of-way as proposed in this petition would follow the legal boundary of that property on Certificate of Survey 5983. This line that is shown here belongs much farther south than what is shown here.

Rose Lockwood - Okay then the next question is the distinction of a right-of-way and an easement is relevant because my son of course has no objection whatsoever to whatever he is supposed to do to give people the right to drive along what is an established road. He was quite surprised when he bought the parcel recently because it is adjacent to a piece of property that he has a state lease on. He was quite surprised to discover that the survey map he was shown showed his land going under the road. So he has no problem going on to the road what he has a problem with is the sixty foot width of it and the extent which that would intrude into this fee simple lot A and B the implication that the extra footage which has sort of doubled in size of the road which is an easement in favor of utilities because he does not feel it is appropriate to provide an easement for utilities on that side of the road. So I don’t know how to address that. I have some pictures that show what the issues are if you want to look at them?

Commissioner Curtiss – So Steve will explain all of them to us anyway but I bet he can answer your question too.
**Steve Niday** - The distinction between a right of way and an easement in this case there is none. A public right of way allows for the installation of the utilities but those utilities would go logically near or in the road surface out there. Again the boundary of your property is going to be the right of way limits. So there is no additional right of way or easement being taken from your property.

**Rose Lockwood** - If you did as I did yesterday and stand in the middle of the road and measure it out, you know I am an amateur I don’t know how this works, but I gather that a sixty foot easement means that you start in the middle of the road and go thirty feet both ways. Is that right?

**Commissioner Curtiss** – Most of the time.

**Steve Niday** - In this case we are actually relying on your survey to determine where the right of way is so we don’t end up with a gap or overlap between your property and the right of way. We intentionally did that to create less confusion. Again I would be glad to come out and point out to you the boundaries of your property.

**Rose Lockwood** - Okay we can do that separately. But I wanted to make the general point for the future because you have to make the decision there is a very strong case for not making it possible for people to insist that their utilities go on the south side of Riverview Drive because it has got a very large pond that is almost adjacent to the road. It has got my son’s house and the house that is by Weatherall further down on the second piece very close to the road. So it would be very intrusive when there is a huge gap on the other side of the road which is perfectly appropriate for utilities. My son would simply like to have the comfort level that people would take that into account in the future. He was hoping that maybe you would make it narrower but I gather that it is a different thing.

**Steve Niday** - State Statues dictates a sixty foot wide road. That is what the petition requested. For an alteration of that could be done but I don’t think we want to go there. Practically speaking you are right the utilities because of the wet land there to the south would most likely be pushed to the north to avoid that but that is not to say that legally they couldn’t use the entire sixty foot right of way for those utilities.

**Commissioner Curtiss** – They could also plow it right down the middle of the road if they had a permit from us to restore the road.

**Rose Lockwood** - So we have a piece of paper for my son to sign saying that he agrees. So what if he doesn’t sign it?

**Steve Niday** - I believe you are referring to a deed. We have decided, Don and the County have decided to go a different way on that so you can tear that up and throw it away.

**Rose Lockwood** - Okay so you are just going to do it anyway then?

**Commissioner Curtiss** – No we are going to do it a different way.

**Steve Niday** - We are doing it as a public petition process as opposed to individual deeds.

**Rose Lockwood** - Oh okay so that is what the petition was for.
Steve Niday - The end goal is the same we are just trying to get there in an easier way.

Chair Carey – We need a site visit on this one right, before we can make a decision?

Commissioner Curtiss – Right and on the list we have in our book I know that I have went on one since this was done. So I think it is probably Commissioner Rowley’s turn. So we can set that, I don’t know if Commissioner Rowley has here schedule. The other question is whether we would like to have the final hearing or make the decision because today we will recess the hearing until the site visit which is required and then reopen the hearing to make the decision. Whether we want to do it up in Seeley. We could probable schedule it to be ahead of the Seeley Lake Community Council Meeting as long as we made sure that we had plenty of time in the building last time they were meetings scheduled back to back. We are not changing anything for anybody we are just documenting. Do you live on that road? You do right Sir?

Robert Harman - My name is Robert Harman I am a land owner on Riverview Drive. I work at Pyramid I have talked to Roger Johnson who created that road forty or fifty years ago. What he told me somebody dropped the ball; I signed papers on that to give clearance about decades ago. Well obviously I am not here to argue a point. I am here to say let’s keep it and turn it into a legal road because if I would ever sell one of my two properties I can’t get clear title because the title companies know about it. Not that we are trying to be secretive. I had talked to him and I have talked to at least seven or eight other land owners on the north side of Riverview Drive and there is not anybody that says well why hadn’t this been done. So I came as a spokesman for myself but I am representing all of these people that I have talked to. I went to the meeting that both the attorney and the County was there. I also went to another meeting that Seeley Lake Council and mentioned that if they knew about Riverview Drive. But they have another issue going on about the main road and then I brought this up. And they said why don’t you be an advocate and I said that I am. I am going to go to this meeting to say that we would want to get this done leave everything to where it is and we will deal with other issues like the bridge later. So that is all that I wanted to speak because I want this done too.

Commissioner Curtiss - So Mr. Harman do you think that the homeowners prefer that we have the final meeting in Seeley so they could attend in the evening?

Robert Harman - I don’t think so, like I said, I asked many of them. Some of them have been living there since ’77. I asked if they would they be attending the meeting and they said: “No, we understand that it is going to be just the way that it is and we are not going to lose anything or gain anything." I said: “Well technically from the center of the road over yeah, but I am not going tear up that road.” I also understood if it wasn’t approved the county would not plow the road or maintain the road any longer. We don’t want that out there we want everything to take place and get done and those land owners beyond the river; I live right on the first street just before you cross the river. I mean the first house. I don’t think that is a necessary thing I would like to see you move on it today.

Commissioner Curtiss - We can’t move on it today because we have to do a site visit.

Robert Harman - Well, just as quickly as we can.

Don Snavley- A couple of owners at the public meeting in July raised the issue about you folks coming out and one of the Deputy County Attorney’s said that is easier said than done.
considering your schedules. What I told them is that you could submit written comments certainly to the Surveyor’s Office gave them the address. So I don’t think that is a big deal, I really don’t. After today I am going to send out another letter out to them and we moved the process along and what’s going to happen. I think the cadastral mapping was confusing, for example one of the lots that were boarding the road was not even showing on the cadastral. A skinny little lot wasn’t even showing on the maps.

**Steve Niday** - One more comment, I would like to address something that Mr. Harman said that he was under the impression that if this was not created as a public right of way we would stop maintenance on it. I don’t believe that to be the case. I have not heard that for Greg. I believe we would continue to maintain it. We would be restricted to what we could do to repair or replace the bridge though. As far as the meeting up there goes there was a short article written in the Pathfinder Community Paper. My name was given as a point of contact. I have not received any comments because of that so probable it is a limited number of people that want you guys up there.

**Diane Ledamen** - My name is Diane Ledamen my husband and I have twenty acres, a home and a barn on Beaver Creek Road so we access over the bridge and we had our house on the market in 2013. The title company that we had used previously when we purchased the land had said they would cover us even though and I told them, I’m a real estate broker, I told them what was going on. Several months later we received their, this is our excuse letter and had refused to give us title insurance since. I went to other title company’s in Missoula who also refused us. So for two years we have not been able to put our home on the market. And I believe that some of the people along Riverview are in the same situation. So I very much appreciate that you are moving forward with this and how quickly you moved ahead because everything else has been frustratingly slow. I hope that you will continue because I am one of the people that are being affected. It isn’t just driving the road, we can't sell our home. There are people on Riverview Drive that are in the same predicament. So thank you for what you are doing and for moving forward on it, I appreciate that.

**Tim Tanberg** - My name is Tim Tanberg I live in Seeley Lake. I have lived up there since the early ’70’s. My wife and I own a lot on Beaver Creek which is on the affected side of west side of the river. My business partner and I own a lot that is going to be impacted by the right of way issue. I think something that is really complicating this issue is a lack of understanding by the general community about the history of that road. My understanding is that road back in the ’20’s or ’30’s was the access road to Placid Lake and it has been treated as a County road ever since I have been there. I think that investigating the history of the road and the history of the access issues and the history of its usage would be something that would be worthwhile looking into. To see exactly what which roads are county roads and which are forest service roads. Champion put this road in and the Forest Service put that road in. I think if those issues could be addressed it might help in finding who the responsible parties are for who has the authority to maintain the road.

**Commissioner Curtiss** - So that is exactly why Steve Niday is our favorite employee this week. That is what Steve is known for is doing that history and research. That is why we figured out that there is no petitioned road that was ever filed. So that is all we are trying to do today.

**Tim Tanberg** – Well it is probably just a rumor that the County actually gave up the right of way, abandoned the right of way. There is a section of road if you go back towards Placid Lake in those back roads back there, they are people that uses that road way back sixty years ago to
access Placid Lake. Like I said there is no way of telling if it is just rumor or hearsay or if there are some facts involved. I appreciate the efforts that you are making and hopefully we can get it rectified because I live on the west side of the river. If you condemn the bridge I am going to have to drive forty miles to get in to Seeley.

**Steve Niday** – It is not just a rumor the old, old, old circa 1910-1920 came off of where Boy Scout Road is now and diagonal to where the south west to were the bridge is now, which was a dam at the time. Yes the County did abandon that road. That was part of the research that we did to determine that Riverview actually doesn’t have right of way. We put together an extensive document that I would be absolutely thrilled to share with you preferably through e-mail if I can do that. It will lay out all of the history of how that road system developed and why we arrived at our opinion.

**Rose Lockwood** - I just wanted to ask a question about processes. By coincidence I live just around the corner on state leased land on Grizzly Drive. We have recently been informed that similarly it turns out that the road the County has been plowing and maintaining for us all of these years turns out is not acknowledged as a road by the County. So could we get together and ask you to make it a county road or does it not work like that?

**Commissioner Curtiss** – If you wanted to buy the easement from DNRC. That’s the trouble; you are on state leased land?

**Rose Lockwood** - Right

**Commissioner Curtiss** – They require us to buy the easement and Greg has not said that he would not plow your road. He just said that it needs to be brought up to standard because it is in bad shape. Because it is not a county road we are not going to invest county dollars in to improving it. We were hoping to have a joint letter from the County and the State to talk about some options for you but they sent their letter too quick. There could be a road user's agreement and try to figure out how to help improve that road so we could plow it. But the State wants us to buy all of them and we have been a little bit on the stubborn side about not buying easements, when we have maintained roads for them to access their own property for years.

**Commissioner Curtiss** - Our next meeting is on the 26th. So I think you can count on the fact that we will make a decision on the 26th. Mr. Snavley do you or someone you represent want to be notified what date they are going to do the sight visit?

**Don Snavley** - (Inaudible)

**Commissioner Curtiss** – Does anyone in here want to be notified when a decision is made?

(Inaudible)

**Commissioner Curtiss** – Okay if you could make sure we get a contact number for you before you leave? Anyone that wants to join them.

**Chair Carey** – So we are recessed with this hearing until the 26th at our public meeting.

**Chair Carey** – We now have a presentation on how residential fire sprinklers’ work.
Tim Worley – I am excited to have some professionals here from DES, from Frenchtown Rural Fire and Missoula Rural Fire. In two weeks we are going to be bringing the subdivision regulation for the infrastructure related sections which include water supply for firefighting apparatus and we thought it was a good time to recall the utility of particularly residential fire sprinklers; As that is going to be part of our infrastructure section of the regs that we will be bringing to you in two weeks. So without further ado Adriane with DES will be running the show that’s a pretty compelling video about fire sprinklers vs. Not having those within a residential context.

Chair Carey – Thank you Tim.

PRESENTATION: How Residential Fire Sprinklers Work

Adriane Beck showed YouTube Video

Adriane Beck - I also serve as the County Fire inspector and the County Fire Warden so that is my relevance to this conversation. I will just type in a quick address to bring up a YouTube video. Certainly for the public and the Commissioners’ a quick YouTube search can find lots of useful videos that show how fire sprinklers work. This one in particular we decided to show because it is a side by side comparison to very similar building construction types, actually almost identical, and fire conditions that are almost identical so you can see kind of how they work in a fire environment.

(Video and presentation-Audio would not work on video)

Adriane Beck - So at this time I would invite Deputy Chief Newman who is the fire marshal for the Missoula Rural Fire District to add anything or any of the other fire chiefs.

Deputy Chief Newman - The only other thing I would add is one of the things that we hear about is the water damage in a situation like this. Those residential sprinkler heads are approximately twelve gallons per minute. So with the fire department's response of let’s say ten minutes obviously we are looking at one hundred and twenty gallons of water. Once the fire department gets there we are going to flow one hundred and fifty gallons a minute and obviously you are going to have significant damage throughout the home. What we didn’t see in that video was once that fire roared down the hallway made it into the living room basically that entire duplex was still standing; it is pretty much a complete loss. So a hundred and twenty gallons of water, no other smoke damage throughout the rest of the structure and we are not even talking about the potential lives saved we are just talking about the property conservation. When we are talking the potential of life safety here it is a no brainer. I just wanted to make sure no one is still under the Hollywood myth that every sprinkler in the house goes off and they are set off by heat. There is basically a bulb a thermocouple if you will that once reaches 155 degrees, so once that bulb breaks that is the only sprinkler activated.

Commissioner Curtiss – So I would like to suggest that we send the link to the video where people could see it. Send it to Katie Klietz so we can put on the County’s blog or tweet it out or
however they do that now. Because I think it is interesting for people to see that side by side comparison.

Adriane Beck — The other thing that I think is important to keep in mind when we talk about sprinklers is that we rarely hear when they work. Bad news travels fast, good news hardly travels at all. When we see structures burn to the ground that aren't sprinklered it becomes a front page news story. When an event like that, when a house catches on fire and it is confined to the room or origin and very little damage occurs it is not a news story at all. The fire department show's up and barley has to pull a hose line in order to do a little bit of rehab to ensure the fire is out. So we don't see some of the benefits or sprinklers.

Commissioner Curtiss – And it is coming up on the time when you should change the smoke detector batteries. When you change your clocks it is a good idea.

Other Business: None

Recess : Chair Carey- Being no further business to come before the Board, The County Commissioners are in recess at 2:48.