1. CALL TO ORDER
Commissioners Present: Commissioner Bill Carey (Chair), Commissioner Nicole “Cola” Rowley, Commissioner Jean Curtiss

Staff Present: Steve Niday, Surveyors Office, Christine Dascenzo, CAPS, Tim Worley, CAPS, Deb Evison, Public Works, Greg Robertson, Director Public Works, Eric Dickson, Public Works, John Hart, County Attorney

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS
   None

4. PUBLIC COMMENT
   None

5. CURRENT CLAIMS LIST
   August 12, 2015 – September 9, 2015 Total Claims $6,077,667.54

6. HEARINGS (Certificates of Survey)

a. Judy Peterson Family Transfer –

0:58 (1:09:58)Christine Dascenzo, Community and Planning Services gave report. Judy Peterson owns 34.1 acres in Pattee Canyon and she is proposing to use the family transfer exemption to create 2 parcels to her adult children both of which are 11.3 acres. Lisa Beard and Eric Peterson are the recipients and plan to use both parcels as home sites. The remainder tract will also be 11.3 acres. This parcel is in compliance and is split zoned. The northern parcel will be tract 1 and that is in zoning district 4 which allows for minimum lot size of 3 acres, with one dwelling per 5 acres. The southern portion of the parcel will make up part of tract 1 and all of tract 2 & 3. That zoning requires a minimum lot size of 2 acres. The proposal is compliant with zoning.

The parcel was created most recently in February 2015 in the current configuration when the Petersons went through boundary line relocation.
Christine Dascenzo asked the standard family transfer questions.

Can you state you name for the record?
Judy Peterson – Judy A. Peterson

Are you using the Family Transfer Exemption process as an attempt to evade subdivision?
Judy Peterson – No

How long have you own the property?
Judy Peterson – Approximately 2 years

Did you buy the property with the intent of dividing it?
Judy Peterson – No

Do you or your transferees intend to transfer the property within the next year?
Judy Peterson – Not to my knowledge

Have you talked to anyone at the County about going through subdivision review?
Judy Peterson – No

Are you in the business of building or developing the property?
Judy Peterson – No

Do you understand that this exemption is not being reviewed for adequate physical and legal access for all vehicles in all weather?
Judy Peterson – Yes

Do you understand that approval of this exemption does not mean that the property is approved for zoning compliance, building permit, flood plain, septic system or any other permits?
Judy Peterson – Yes

With regard to recipient who is not a minor. Will the property be developed?
Judy Peterson – To my knowledge not at this point but perhaps further down the road.

Will the recipient of the property be residing on the property?
Judy Peterson – Not in the immediate future.
Where do the recipients live now?

Judy Peterson – One lives in Missoula and one in Colorado.

Commissioner Curtiss – Confusion on the structures that might be there and whether one burnt down?

Judy Peterson – Yes there is a foundation. Right now we have wired around it so no one gets close to it.

Commissioner Curtiss – Nobody lives there right now?

Judy Peterson – Yes nobody lives there.

Public Comment – None

*Commissioner Curtiss made motion that the Board of County Commissioners approve the request by Judy Peterson to create and transfer two parcels by the use of family transfer exemption based on the fact that it does not appear to be an attempt to evade subdivision review /Commissioner Rowley second the motion – passed unanimously*

b. Terry Hoke Family Transfer – Family Transfer; Terry Hoke

Christine Dascenzo, Community and Planning Services gave report – Terry Hoke owns 4.85 acres in West Missoula. The proposal is to use the family transfer to create and transfer 1 acre to their adult child. Jared Hoke the recipient plans to use the parcel as a home site. Remainder tack will also be 3.85 acres. This parcel is in compliance with zoning regulations, zoning CRR1 with density of 1 dwelling per acre. Parcel access is shared access easement off of council way; 1 dwelling on property and 1 outbuilding (both built in 1979) located inside the flood plain, County recommending that this be shown on the final plat. This should not affect the transfer parcel, and no new structures shown within the flood plain.

Christine Dascenzo asked the standard family transfer questions.

Please state your name for the record.

Terry Hoke – Terry Hoke

Are you using this subdivision exemption process as an attempt to evade subdivision review?

Terry Hoke – No

How long have you owned the property?

Terry Hoke – 27 years

Did you buy the property with the intent of dividing it?
Terry Hoke – No

Do you or your transferees intend to transfer the property within the next year?

Terry Hoke – No

Have you talked with anyone at the county about going through subdivision review?

Terry Hoke – No

Are you in the business of building or developing property?

Terry Hoke – No

Do you understand that this exemption is not being reviewed for adequate physical legal access by all vehicles in all weather?

Terry Hoke – Yes

Do you understand that approval of this exemption does not mean that the property is approved for zoning compliance, building permit, flood plain and septic systems or any other permits?

Terry Hoke – Yes

As for the recipients do you know if the property will be developed?

Terry Hoke – Wants to build a house.

Will the recipient of the property be residing on the property?

Terry Hoke – Yes

Where does the recipient live now?

Terry Hoke – Because it is summer time he lives at my house.

Public Comments – None

*Commissioner Rowley made motion that the Board of County Commissioners approve the request by Terry Hoke to create and transfer one parcel by using the Family Transfer Exemption, based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss second – Passed unanimously*

1. Family Transfer - same as above; Roy and Jason Wills

Christine Dascenzo with Community and Planning Services gave report –
Roy Wills owns 27.45 acres in Potomac and is proposing to use the family transfer exemption to create and transfer 3 parcels; to his adult children Roy G. Wills, Jennifer Wills, Randy Hamilton. 8.5 acres to Roy G Wills, 4 acres to Jennifer Wills and 3 acres to Randy Hamilton for use of home sites, remainder tract is 12 acres. Property is in compliance with zoning regulations. Created in 1985, COS 3229, 2 existing dwelling and 4 out buildings. Located in zone D of flood plain, which is an undetermined risk. Reviewed for invasion criteria and triggered 3, (to divide a tract that was created through use of exemption, to divide a tract which will become 1 of 3 or more parcels to be divided from the original tract, to divide tracts by applicant who has used exemptions to create parcels from the original tract or other tracts).

Christine Dascenzo asked the standard family transfer questions.

Can you both state your name for the record?

Roy Wills and Jason Wills

How long have you owned the property?

Roy Wills – about 30 years – If I can I would like to have you direct questions to him I don’t feel real well and he can answer them.

Sure.

Did he buy the property with the intent of dividing it?

Jason Wills – No

Do you or your transferees intend to transfer the property within the next year?

Jason Wills – No

Have you talked to anyone at the county about going through subdivision review?

Jason Willis – No

Are you in the business of building or developing property?

Jason Willis – No

Do you understand that this exemption is not being review for adequate physical and legal access by all vehicles in all weather?

Jason Wills – Yes

Do you understand that approval of this exemption does not mean that the property is approved for zoning compliance, building permits, flood plain or septic systems or any other permits?

Jason Wills – Yes
As the recipient will the property be developed?

Jason Wills – Probably no until after their retirement.

Will the recipient of the property be residing on the property?

Jason Wills – Possibly yes

Where do the recipients live now?


Public Comments - None

Commissioner Curtiss made motion that the Board of County Commissioners approve the request by Roy Wills to create and transfer 3 parcels by the use of the Family Transfer Exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Rowley Second – Passed unanimously.

2. Family Transfer with Boundary Line Relocation

Christine Dascenzo, Community and Planning Services gave report –

Roy Wills owns additional 305.6 acres in Potomac and is proposing to use the family transfer and boundary line relocation to create and transfer 3 parcels for his adult children. 70 acres to Royce Colin, 80 acres to Jason Wills, 80 acres to Victoria Godkins for the use of home sites, the remainder tract will be 75.6 acres. These parcels are compliant with zoning regulation due to the fact that it is unzoned. Land use recommendation of 1 dwelling per 40 acres and open end resource.

The parcel was created most recently in 2002 in the current configuration Roy O. Wills went through boundary line relocation, COS 5069. No dwelling or out buildings currently on the property. The property is located in zone D of the flood plain with undetermined flood risks. Reviewed for subdivision evasion based on 10 criteria from the subdivision regulations and triggered 3, (to divide a tract that was created through use of exemptions, to divide a tract which will become 1 of 3 or more parcels that will be divided from the original tract, through use of exemptions and to divide tracts by an applicant who has used exemptions in the past). Staff is recommending approval.

Christine Dascenzo asks the standard family transfer questions.

Please state your name for the record.

Jason and Roy Wills

Are you using the subdivision exemption process in this case in an attempt to evade subdivision review?

Jason Wills – No
How long have you owned these two pieces of property?
Row Wills – about 30 years

Did you buy the property with the intent of dividing it?
Roy Wills – I was willed to me from my folks. In other words, no.

Do you or your transferees intend to transfer the property within the next year?
Roy Wills – No

Have you talked to anyone at the county about going through subdivision review?
Roy Wills – No

Are you in the business of building or developing property?
Roy Wills – No

Do you understand that this exemption is not being reviewed for adequate physical and legal access by all vehicles in all weather?
Roy Wills – Yes

Do you understand that approval of this exemption does not mean the property is approved for zoning compliance, building permits, flood plain or septic systems or any other permits?
Roy Wills – Yes

As for the recipients, will the property being transferred be developed?
Jason Wills – Eventually once everyone retires.

Will the recipients of the properties be residing on the property?
Jason Wills – Yes

Where do they live now?

**Commissioner Curtiss** – State on the record, that while the property is in Potomac the paper work says Bonner, because that’s the mailing address.

**Public Comment** – None
Commissioner Rowley made motion that the Board of County Commissioners approve the request by Roy Wills for a boundary line relocation and to create and transfer 3 parcels by use of the Family Transfer Exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss Second – Passed unanimously.

**HEARING**

**Laing-Mormon Creek Open Space Bond Project**

Sarah Richey, Project Manager, with 5 Valleys Land Trust gave report. Bog Lang is requesting Open Space Bond Funding to cover the transaction cost of a fully donated conservation easement in Lolo, MT. [For expenditure of $13,850] Bob Lang land owner has owned this property since 1952. Mr. Laing is proposing that this land be kept intact and minimally developed. Property is located just southwest of Lolo, about 3 miles up Mormon Creek Road. This property contains 204 acres that is very diverse with a lot of conservation values, agriculture productive bottom land; 2 North south ridges with wildlife movement. Terms of proposal – allow one new resident in addition to this existing home and prohibit any subdivision of this property a total of 3 parcels. Transaction cost of completing this conservation easement include, title research, insurance, minerals research, ace line inventory, closing fees, recording fees and a stewardship fee.

Kali Becher, Missoula County Community and Planning Services gave staff report – Five Valley Land trust will hold the conservation land easement. July 15, 2015 the BCC determined the project as a qualified open space project by adopting reimbursement resolution 2015-80 which qualifies the project for Open Bond Space Funding. Missoula County open land citizen advisory committee met of July 16, 2015 and voted unanimously for approval. This project meets the following land trust purpose, protecting water quality of streams, protecting wildlife habitat, providing open space and scenic landscapes, preserving working ranches, farms and forest and managing for growth. The expenditures will be used on transaction cost.

Staff recommends approval. One condition of approval, separate grant agreement between Five Valley’s Land Trust and the County signed and recorded prior to the release of Open Space Bonds Funds is approved.

Andy Hayes Open Lands Committee – Spoke in favor of the easement.

**Public Comment** – No more

Commissioner Curtiss made motion that the Board of County Commissioners authorize bonds from the expenditure up to 13,850 dollars for the transaction cost of a fully donated conservation easement of approximately 204 acres of the Laing-Mormon Creek Project, with the condition that prior or concurrent with the release of funds (inaudible) remove from the rural county be supportive of establishing the use of funds for the long term potential of enforced conservation easement. Commissioner Rowley 2nd – passed

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8. **HEARING**

Missoula County Subdivision Regulations REWRITE:
Section 3.1 – Natural, Cultural, Environmental & Hazardous Lands
Mitch Doherty/Community and Planning Services gave staff report. Proposal to amend section 3.13 in National Health Environmental section, titled Hazardous Lands. Tim Worley review procedure section article 5, Jenny Dickson section 3.2 and 3.12 in article 3. Tim Worley most recently accomplished transportation infrastructure in article 3.

Mitch Doherty reviewed section 3.1 Hazardous Land. Division for article 3, section 3.1 is expanding to include several new sections including, hazardous lands, agriculture, and agricultural water users; live apparent resources areas and wildlife. Proposals rewrite effective date November 2, 2016.

June 8, 2015 CAPs released the first public tract, held several QA’s around the community. Section 3.13 importance – County need to protect public health safety and welfare, County protects private and public investments. Minimizing risk can help achieve these goals. Proposal includes, defining the hazard and clear litigation options, specific guidance on hazards including wildfire and flooding. Propose changes to section 2.2 including definitions for terms such as potential space, slope and stream, section 7.5 includes amendment for submittal requirements for both preliminary plat application and final plat submittal. Current regulations only include a list of hazards. The purposed regulations are to define hazards to provide more clarity for the users. Potential hazards that need to be considered; developer needs to identify though hazards within the project area. Prohibit development of building structures, infrastructure without the Board of County Commissioners litigation acceptance.

Proposal includes a 2 step process to identify a wild fire hazard. 1st step includes review of the property in relation to the wild land urban interface map include within the community wildlife protection plan. 2nd site specific fire hazard assessment, assessment considers, access vegetation, water supply, building material.

Wildlife interface map tool – this tool is used currently to obtain funding fuels reduction mark. Wildlife interface map does not describe or portray the risk or severity of the wild fire hazard so it cannot be solely relied upon to trigger the wildfire hazard area standards. Staff is proposing, a reduction requirements for defensive space for months currently in regulations.

Proposal maintains standards for minor subdivisions, but for major subdivisions this prohibits flood hazard area from being included in any future lots without designated for development. Adoption of standard will achieve a better systems rating from FEMA, with this rating a 5% reduction of flood insurance policies for all Missoula County residents with flood insurance policy.

Staff recommends approval.

Commissioner Curtiss – (inaudible)

Todd Klietz Floodplain Administrator– 15 square mile area is the area that the creek actually drains. So it is not 15 square miles of actual creek, but the area up in the mountains where it drains from.

Commissioner Curtiss – It depends on how much water is coming down?

Commissioner Rowley directed question toward Mitch Doherty – Asks to address a public comment by, Rocky Singert.

Mitch Doherty – Yes, as I saw Mr. Singerts comments I spoke with a few planners in our office to see if I could get some more background information on that subdivision. I was not able to get any. In terms of the high pressure gas lines and things like that, some research we did to look into that was, I call a few development organizations to see how they look at high pressure gas lines and hazardous areas like that. What they told me they do is an onsite analysis so that
there is some maps available. They are very will know and planned around as developments planned.

**Commissioner Rowley** – So you don’t feel like the language from the current regulations will cause a legal dwelling?

**Mitch Doherty** – I don’t personally.

**Commissioner Curtiss** – But what it would do is prevent, people from (inaudible). So if we put these regulations in place it would demit from cutting power lines and gas lines.

**Mitch Doherty** – Right, that was one of the things that I notice.

**Commissioner Rowley** – So we just wouldn’t build it that way?

**Mitch Doherty** – Probably not in the future.

**Commissioner Curtiss** – Besides lots that might already exist there. I would like to talk about the flood plain.

**Todd Klietz** – I had talked with the CRS (Community Rating System) coordinator at the national level about that. He had 3 specific goal points that he wanted to bring across.

1. Open space reserve that is dedicated open space parcels vs. individually developed lots.
2. Open space as part of privately owned lots.
3. In addition to parcels or total open space they’re more than likely the structures such as driveways, roads and other structures are involved in producing future flood loss.

Some that we have experienced locally, Clark Fork Meadows, Wallace Creek Estates, Mullan Trail, and River Bottom Estates all of those experienced subdivision requirement preventing the structures from actually being in the flood plain.

**Commissioner Curtiss** – The other piece I see is that is someone happened to buy. In some ways we might conflict our preservation of Ag lands.

**Mitch Doherty** – If I understand correctly your concern is that maybe those areas wouldn’t be able to be used for agriculture purposes. I think that there are still the possibilities for that. One of the examples we use for how the property could be used is agricultural lot. So I think that it still could be used for agriculture reasons, I don’t think that there would be limitations there. I guess if it was subdivided such that there were several different owners maybe that wouldn’t work in that situation.

**Commissioner Rowley** – Could you also address the public comment from Mr. John Hayword.

**Mitch Doherty** – If I recall correctly he was concerned that there might be requirement to do some defensible space work on federal lands.
**Commissioner Rowley** – I think that if you’re adjacent to federal lands and they don’t have that space so you can’t create defensible space. It sounds that he is concerned about developing adjacent to federal lands.

**Mitch Doherty** – In response to his comment, there is no requirements here that are going to force someone to do defensible space on someone else’s property. So if someone was adjacent to some federal lands they wouldn’t be required to provide defensible space on that federal land. The other part about the wildlife habitat and taken that into consideration, something similar to what Commissioner Curtiss just mentioned with agricultural lands coming forward, I think as we develop all these divisions and regulations something we keep in mind is how they all work together. So we have some of the proposed litigation agriculture lands, proposed litigation on hazardous lands, and possible proposed litigation for wildlife habitat. When you combine all that or compound that how does that affect a property owner? It is something we consider when we are developing these regulations.

**Commissioner Rowley** - It doesn’t sound like to me that he is concerned about taking care of the federal lands, it sounds to me like his concern is that, people should not be able to develop really close to federal lands because the lack of defensible space or litigation ability. So I didn’t know if there is a model of any setbacks from federal lands or if there is a way that other communities have tried to litigate that?

**Mitch Doherty** – I guess I didn't read it that way. What I have seen in other communities is, one example is a green belt around an entire development. That in itself has some impacts on wildlife and other things as well.

**Commissioner Rowley** – Where do we intend on addressing the fire hazards?

**Mitch Doherty** – We don't have a plan in place in our work plan. I think that the best approach would be a standalone ordinance. That ordinance would incorporate wildlife urban interface, so it would have a vegetation management section which would address defensible space for private lots. It would read similar to a more urban ordinance that address weeds and other vegetation and things like that. Also included in that stand alone ordinance would be your subdivision regulations. That was a recommendation from the University of Montana Law Clinic as well from some work that they did. The other approach is having separate vegetation ordinances that say everyone in the county may do defensible space.

**Commissioner Rowley** – I agree that the subdivision regulations are not the place to address it, but I do completely understand the concerns of people on the planning board and other people in the community. I definitely want to see that move forward and have defensible space put in somewhere. I want to make sure that we relay the concerns of people who are fearful that it's coming out and that we are going to address it somewhere.

**Mitch Doherty** – I would add from an enforcement perspective, which I did code enforcement for the sometime for the county. It is difficult to enforce defensible space requirements and perpetuity, based on something that is included someone’s covenants. We have had success in getting people to create defensible space, but having them maintain that defensible space is another thing.
**Commissioner Curtiss** – A standalone ordinance would apply to all property not just property that gone through subdivision.

**Mitch Doherty** – Correct, that’s the other reason a standalone ordinance would be more appropriate.

**Commissioner Curtiss** – So if we adopt these regulations and they have this flood plain piece, is there flexibility that a subdivision came forward and made a strong case for why is should be a different way?

**Mitch Doherty** – We are not proposing the variance requirements at all, so they would still need to meet the requirements those requirements.

**Commissioner Curtiss** – Planning board motion failed there are not any planning board changes.

**Mitch Doherty** – There are no changes for planning board and no recommendations.

*Commissioner Rowley made a motion that the resolution given to the Missoula County subdivision regulations be adopted effective November 2, 2015. Commissioner Curtiss seconds the motion – passed unanimously.*

9. **OTHER BUSINESS** - None

10. **RECESS** – at 2:45 pm