

Missoula Board of County Commissioners

PUBLIC MEETING MINUTES COVER SHEET



THURSDAY, JUNE 3, 2021 – 2 PM

Virtual Meeting – Microsoft Teams

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Time stamps (in green) correspond to meeting recording above. Please click to the time stamps listed to view a particular item in the meeting.

ATTENDANCE:

Commissioners Present:

Chair Strohmaier
Commissioner Vero

Staff Present:

Violet Plummer, Administrative Assistant, Commissioners' Office
Michael Dorshorst, Environmental Health Specialist, Health Department
Shannon Therriault, Environmental Health Director, Health Department
Matt Heimel, Planner, Community and Planning Services
Anna Conley, Chief Deputy Civil Attorney, Attorney's Office
Jeanna Miller, Environmental Health Manager, Health Department
Amanda Henthorne, Budget Analyst, Finance
John Hart, Civil Deputy Attorney, Attorney's Office
Mel Fisher, Strategic Initiatives Manager, Communications and Projects

1. **CALL TO ORDER** *[Time stamp – 00:00]*
2. **LAND ACKNOWLEDGEMENT** *[Time stamp – 00:07]*
Missoula County acknowledges that this event takes place in the aboriginal territories of the Salish and Kalispel people.
3. **PLEDGE OF ALLEGIANCE** *[Time stamp – 00:23]*
4. **PUBLIC ANNOUNCEMENTS** *[Time stamp – 00:58]*
[None]
5. **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA** *[Time stamp – 01:07]*
[None]
6. **CURRENT CLAIMS LIST** *[Time stamp – 01:25]*
Claims received as of May 20, 2021 to May 24, 2021 by the Commissioners' Office total \$1,121,226.88.

7. HEARINGS

a. Budget Amendments *[Time stamp – 02:12]*

Amanda Henthorne, Budget Analyst, Finance

i. Health Department – Community Health and Wellness Partners

[Time stamp – 02:29]

Commissioner Vero made the motion that the board adopt the resolution to amend the fiscal year 2021 budget to include revenues and expenditures from the receipt of additional funds for providing community health and wellness services to Rocky Boy and Ravalli County.

Commissioner Strohmaier seconded.

[Motion passed 2-0.]

[Resolution 2021-075. B: 1056 P: 1131]

ii. Parks, Trails and Open Lands – Ninemile Creek Restoration *[Time stamp – 05:55]*

Commissioner Vero made the motion that the board adopt the resolution to amend the fiscal year 2021 budget to include revenues and expenditures for grant funding from Department of Natural Resources and Conservation (DNRC).

Commissioner Strohmaier seconded.

[Motion passed 2-0.]

[Resolution 2021-076. B: 1056 P: 1132]

b. Frenchtown Farmers Market Location Change Resolution *[Time stamp – 07:37]*

Jeanna Miller, Environmental Health Manager, Health Department

Commissioner Vero made the motion that the board approve the amended resolution for the Frenchtown Farmers Market.

Commissioner Strohmaier seconded.

[Motion passed 2-0.]

[Resolution 2021-074. B: 1056 P:1133]

c. McCollum Family Transfer *[Time stamp – 12:50]*

Matt Heimel, Planner, Community and Planning Services

Commissioner Vero made the motion that the request by Douglas and Stephanie McCollum to utilize the family transfer exemption to create and transfer one parcel to Stephanie McCollum's parents, Donald and Cleo Nelson, as presented in the exemption application and affidavit be approved.

Commissioner Strohmaier seconded.

[Motion passed 2-0.]

[Letter 2021-124 Mailed to: Douglas and Stephanie McCollum.]

- d. **Missoula City-County Health Code Final Adoption** *[Time stamp – 23:28]*
Shannon Therriault, Environmental Health Director, Health Department

Commissioner Vero made the motion that the board approve the second and final adoption of the Missoula City County Health Code and associated fees by reference.

Commissioner Strohmaier seconded.

[Motion passed 2-0.]

[Resolution 2021-077; Ordinance 2021-002. B: 1056 P: 1134]

8. **OTHER BUSINESS** *[Time stamp – 32:14]*
[None]

9. **ADJOURN**

Chair Strohmaier – Called the meeting to adjourn at 2:32 p.m.

BCC Public Meeting June 3, 2021 – Transcription

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[00:00:02] Beautiful day. And let us begin with a land acknowledgement that this event today takes place in the Aboriginal territories of the Salish and Kalispell people. Violet, would you please display the flag? And the folks would like to join us in the Pledge of Allegiance. I pledge allegiance to the flag of the United States of America and to the Republic, for which One Nation under God, indivisible with liberty and justice for all. All right, thanks, Violet, and for those of you who are new to these meetings, I am Dave Strohmaier or I'm joined by fellow county commissioner Juanita Vero. Commissioner Slotnick is out of town and unable to join us today. Are there any public announcements from staff at this time? Seeing none, are there any public comments on items not on today's agenda, and this would be the opportunity for folks to offer ideas, thoughts, ruminations on anything that is not otherwise listed on the agenda. Ok. See, none of our claims list, which covers the period May 20th through May 20 four. These are claims received by the Commissioner's Office total one million one hundred and twenty one thousand two hundred and twenty six dollars and eighty eight cents. We have a number of hearings today, as in all of our meetings. We will begin by opening the public hearing, allowing an opportunity for staff to provide a staff report and the items where this is relevant. The applicant or applicants representative can then present an offer comment that will be followed by public comment and then followed by questions from the commission and discussion and ultimately voting by the commission. So our first public hearing are set of public hearings that I'll open relate to budget amendments, and these will be presented by Amanda Henthorne. Amanda.

[00:02:23] Thank you, Commissioner Strohmaier. There are two budget amendments today. The first one that I'll walk us through is for the health department. This is to include revenues and expenditures related to receipt of additional funds for community health and wellness services that are provided to the Rocky Boy Health Center and Reveille County. All expenditures will be covered by incoming revenues and the total budget amendment is for five thousand six hundred and seventy eight dollars. As I mentioned Tuesday, Kate Devino, who runs this program, was not available today, but she did share some information for me with me on the program, and this is part of the WIC section and interests of the health fund and. Each participant had with a high nutritional risk identifier, has an appointment with a registered dietitian, so local agencies that do not have a registered dietitian on staff have to contract with someone else. Unfortunately, the Rocky Boy Health Center and Reveille County lost their registered dietitian services, so Missoula County does have registered dietitian services, and so they contract with each of those groups to provide those services. And the provision of the surgical services to these two entities, was it planned for this year? First, because WIC operates on the federal fiscal year and the staffing changes at both agencies kind of necessitated this last minute change. So by providing these services, Missoula County can keep our registered dietitians hired at a full time level and provide services to other counties as required. And we get a small bit of revenue for that to help cover those positions.

[00:04:31] And this is rocky boy in Havre. Or is that where the health center is or what? I'm confused.

[00:04:38] It would be on the rocky boy reservation.

[00:04:40] Ok, thanks. Thanks.

[00:04:44] Thank you, Amanda. Any questions on this? Any public comment on this requested budget amendment? And the motion would be to adopt the resolution to amend the fiscal year twenty twenty one budget to include revenues and expenditures from the receipt of additional funds providing community health and wellness services to the Rocky Boy Health Center and to Ravalli County, not the Rocky Boy Health Center in Ravalli County. This represents any public comment. Any questions we need?

[00:05:20] Nope. Glad we can do this and glad all expenditures are supported by contractual revenue. So thanks, Amanda.

[00:05:29] Absolutely.

[00:05:30] Yeah. Motion that the board adopted resolution to amend the fiscal year twenty twenty one budget to include revenues and expenditures from the receipt of additional funds for providing community health and wellness services to Rocky Boy and Ravalli County.

[00:05:46] I will second that any further discussion on the motion. See, none all in favor. I.

[00:05:52] I.

[00:05:54] All right, next, Amanda,

[00:05:56] Next is a budget amendment relating to revenues and expenditures for a grant that we received from the Department of Natural Resources and Conservation. That is part of the parks, trails and Open Lands program here in Missoula County, and it allows for continued restoration on Nine Mile Creek in partnership with Trout Unlimited. And these contracts have been reviewed. By you in administrative meetings and past, and the project has been a roaring success so far and hopes to continue. And this is just amending the budget for additional revenue for and expenditures for phase five and the initial planning expenditures for phase six. Again, this is neutral to the county's position. All expenditures are completely supported by grant funds and no match is required.

[00:06:55] Great. Any public comment on this budget amendment? Ok, any questions Juanita?

[00:07:08] No. This is great work happening up there, so I move that the board adopt the resolution to amend the fiscal year. 2021 budget to include revenues, expenditures for grant funding from the DNRC.

[00:07:24] I will second that motion any further discussion. Seeing none all in favor. I.

[00:07:31] I.

[00:07:32] Thanks, Amanda.

[00:07:33] Thank you. Have a great afternoon. You bet.

[00:07:37] Our next public hearing, which I will open, relates to the French town farmers market. Gina Miller, are you with us?

[00:07:48] I am with you. Can you hear me?

[00:07:50] We can hear you, all yours.

[00:07:53] Ok, great. It's probably best if I start by kind of summarizing the request, and then we'll get into a little bit of detail regarding why this proposed resolution is in front of you. So Frenchtown has had an established farmers market for several years, established by BCC Resolution, and the original resolution approved the market to be located on the elementary school grounds in Frenchtown over on Main Street. And the market organizer for this particular farmer's market has recently requested that the market be moved to kind of a more visible business location. It's on Beckwith Street. If you're familiar with the Frenchtown I-90 interchange, it would be on the southeast corner kind of in that area where Old Bull Brewing is currently located in that parking area. So the resolution you have would amend the existing resolution to acknowledge that location change, which seems simple enough, but to provide some brief background on why the amendment is necessary. State law grant specific power to boards of county commissioners to establish farmer's markets that's in Title seven, the local government laws and then state laws that govern food safety. Title 50 includes specific allowances for farmers markets for food sold at a farmer's market, and that definition includes only those markets established by boards of county commissioners.

[00:09:28] So in a nutshell, what it does is allow vendors at established, approved markets to be able to sell certain food products without a license or inspection that in other sales venues would be subject to more oversight and food safety requirements. And some examples would include foods that are not potentially hazardous, which means they don't need temperature control for safety or whole shell eggs. Some hot beverages like coffee and tea, so those things can be sold at a market without being subject to the same permitting or licensure requirements. The laws also provide some minimum requirements for markets for organizers to register the vendors that sell at that market and some kind of minimal labeling requirements for food sold at these markets. So to summarize, I guess, approving this amended resolution will allow the French town market vendors to continue to sell those certain foods without the typical facility permitting or inspection requirements. Kind of bringing them into line with the other existing markets. And I have a proposed motion I can bring it up. I'm not as familiar with this meeting format, but I can certainly share my screen if that is helpful.

[00:10:51] Would that be helpful at all, Juanita?

[00:10:54] I mean, I believe the motion is just to approve the amended resolution is that

[00:10:59] So that is it.

[00:11:02] Ok.

[00:11:02] Ok. Before we get to that, is there anyone representing the market or from Frenchtown who would like to speak to this?

[00:11:11] Hi, my name is Tyler Hildebrand. I'm the market manager market. And yeah, I don't have much to add yet. We're just trying to look to move locations.

[00:11:22] How soon would you be moving soon?

[00:11:27] Hopefully.

[00:11:27] Then maybe this weekend?

[00:11:29] Yeah, absolutely. We run our markets on Wednesday

[00:11:31] Evenings, so we don't have as much competition with them as other markets and things like that, because a lot of our vendors also go to the physical market and just we're kind of a local ag community that's just trying to re-engage our community.

[00:11:47] Tyler, what are your hours for your market on Wednesday nights?

[00:11:49] It's five to seven 30.

[00:11:51] Ok, great.

[00:11:54] Thanks. Any other members of the public who would like to speak to the change in location or the resolution that we're proposing to adopt today. Ok. None. Thanks, Tyler. I'll close the public hearing and any more questions we need to know.

[00:12:14] This makes sense to me. So I'm. Going to move that the board approved the amended resolution for the French town farmers market.

[00:12:25] I will second that any further discussion. Are you sure we don't need like four or five months to deliberate on this? Ok, seeing none. Let's get this done. All in favor, please say I,

[00:12:38] I

[00:12:39] Looking forward to check you out next Wednesday.

[00:12:42] There you go. Move it. Thanks, Gina. Thanks. Our next public hearing in which I will open is the McCollum family transfer Matt Hymel, would you like to offer a staff report?

[00:13:00] Yes, good afternoon, commissioners, Matt, I'm with Missoula County Community Planning Services. So I'll be presenting the McCollum family transfer and I'll bring up a PowerPoint here in just a moment. Ok, so this is a request from Douglas and Stephanie McCollum to use the family transfer exemption to the Montana Subdivision and Flatiron Act, which is a division made outside of a politesse subdivision for a single gift or sale to each member of the landowners immediate family. So this transfer is proposed to go to Stephanie's parents, Cleo and Donald Nelson. There's two point one acres subject property is located at 40 to 60 one Sundown Road, and that's the southwest portion of the target range area. There's one single family residence constructed on the property occupied by the claimants with some accessory structures and a garden area that you can see here on the aerial imagery. One of the Missoula Irrigation District, Ditches does bisect the property, and the subject property is within the target range West End Rural Zoning District. That rural zoning district has a one standard that applies to this request, which is a minimum lot size of one acre. We verified the properties two point one acres in area and the proposed. To one acre lots is zoning compliance. And then we also look at growth policy compliance. So this property is described in the Missoula area of land use element, which is from 2019.

[00:14:43] That's an amendment to the 2016 county growth policy. And that describes the subject property with the rural residential and small agricultural land use. And pertinent to this request is the recommended residential density, which is ranging between one unit per acre and two units per acre. So the. A proposal is in addition to being Sony compliant, it is in substantial compliance with the growth policy. The proposed family transfer would create one. New additional tracked. Resulting in a total of two tracks that are each one acre in area track one, which is the North half, would be transferred to Cleo and Donald Nelson. The claimant's parents, parents and the claimants. Douglas and Stephanie McCollum would retain ownership of the south half as tracked to also one acre an area. The application states that both tracks of a single family residential use with individual well as septic that will require sanitation review, and the claimant has indicated that the intended recipients will reside on the transfer tract. So the family transfer exemption is intended to allow for landowner to divide land in a way that is exempt from subdivision review in order to convey one part. So the each immediate family member we turn to Chapter eight of the Missoula County Subdivision regulations for rebuttable presumptions and general evasion criteria to make a determination on whether this request is an invasion of subdivision review and staff's review.

[00:16:22] We concluded that there does not appear to be the request to evade subdivision review. However, there are some points I would like to touch on that. We did note in the review. In the staff report there were there was one rebuttable presumption that. Not triggered. And to general evasion criteria, the one rebuttable presumption is that this request may appear to be speculation for financial benefit, and that can be indicated if the recipient owns other tracts of land in the county and the intended recipients do own and reside at one two nine seven eight zero lane in Lolo and a single family residence is constructed on that parcel. The claimant did indicate that the intent of his family transfers for the intended recipients to construct a house and reside on this new castle off a sundown road. The first of two general evasion criteria that was also triggered. It is whether the original track was transferred to the claimant in the past two years, so the track was originally purchased by the claimants on April 3rd of twenty. You warranty deed and more recently to their title to remove the intended step is mainly to make us eligible for family transfer request. And the second. The basic criteria that this triggers has to do with whether this fits into a development pattern and there are a few different ways that we review to see if an exemption request is part of a development pattern.

[00:17:51] Those can include if there's. Six more tracks, which this is not if it's equivalent to a subdivision with associated characteristics like a road or a or covenants or easement. This does not have any of that or shares infrastructure that's uniquely attributable to a subdivision, which this does not. The one aspect that this does hit is that it is in some. Well, their shape and size to adjacent lots that were planted from the ring, a tradition number four. So I have that up on the screen, it's the parcels that are immediately and adjacent to. There were 11 lots that were between one acre at one point three one acres an area the proposal to have two one acre tracts a similar chamber size. But this is not really a substantial part of an overall development development pattern, and the developer from that subdivision is not involved in this request. So that did not lead us to a conclusion that it is. So that wraps up the

rebuttal presumption and invasion criteria for the attack report. There are some questions, but I would like to ask the claimant if they are ready at this time.

[00:19:06] Is the climate on the line?

[00:19:09] Yep, we are here.

[00:19:11] Oh, there you go, you got a whole bunch in the room. We're all here.

[00:19:17] Can you hear us OK?

[00:19:18] Yes. Ok. Go ahead, Matt.

[00:19:21] Trying to? But my screen share here. So the first question is, did you buy? The property with the intent of dividing it,

[00:19:31] We bought the property with the intent of Doug and I living in this house as our hopefully forever home and with hopes that my parents would be able to build a house on that, that lower tract of our land there. We had discussed with the realtor what would that take and didn't know if we would need to divide half the divide. And so we purchased it knowing that Doug and I wanted it anyways and hopeful that my parents could build as well.

[00:20:03] Thank you. A second of five questions. Do you or your transferees intend to transfer the property within the next year?

[00:20:12] No.

[00:20:15] Thank you. Three. Have you talked with anyone at the county about going through subdivision review?

[00:20:23] The only person that I've talked to is you, Matt, and that was just to start the process of what do we do if my parents want to build on this? Do we divide? Do we not divide? How do we go about that? And the initial indication was that it looked like we should explore the family land transfer. And so that is the route that we have gone. Other than that, I haven't talked to the county about any subdivision review,

[00:20:49] Nor have we.

[00:20:52] Thanks and just to provide some more of that. Yeah, we did have some initial. Queries about whether a accessory dwelling unit would be allowed and then what a family transfer is. We have not had any scoping meetings or pre-application meetings, formal subdivision. Ok, my fourth question is, will the property be developed?

[00:21:14] Yeah, we intend to just build one house for my parents and then they'll reside there, and the intention is to sell their house in Lolo once that house is complete for them to move into. And that's just good dwelling, and yes.

[00:21:34] Right. On my final question, will the recipient of the property be residing on the property?

[00:21:34] Yes, yes.

[00:21:43] Commissioner, that concludes my presentation and questions, I'm available for any questions on this proposal.

[00:21:54] Ok, thank you, Matt, Doug, Stephanie or Stephanie's parents. Anything else that you'd like to add?

[00:22:02] Unless you have any questions for us, we're just thankful for the work that Matt put in and appreciate the time and effort.

[00:22:12] Great, thank you. Is there any public comment on this proposed family transfer? All right. We will close the public hearing questions Juanita?

[00:22:25] No, I don't have any just appreciate the. A compliance and a clean, straightforward project, so thank you.

[00:22:35] Yes. You cannot you cannot say strongly enough how much we appreciate a project coming in that actually is proposing to do what the family transfer law I think was intended to do. So thank you. Seeing none. How about a motion?

[00:22:54] Ok, I'm motion that the request by Douglas and Stephanie McCollum to utilize the family transfer exemption to create and transfer one parcel to Stephanie McCullum's parents, Donald and Cleo Nelson as presented an exemption application affidavit be approved.

[00:23:09] I will second that any further discussion. Seeing none all in favor. I.

[00:23:16] I

[00:23:17] Ok, thank you. Thank you, guys.

[00:23:20] Thanks, Matt.

[00:23:23] Good luck.

[00:23:24] Thanks. Thanks.

[00:23:27] All right, our final public hearing today is something that we have taken up previously. This is final adoption of the Missoula City County Health Code, and I stopped. There she is Shannon Therriault? Bring us up to speed, Shannon.

[00:23:50] All right, thank you very much. Appreciate it. So I'm going to give a very abridged presentation because I gave far more detail in the first public hearing on April 22nd. I do have slides to share, and I hope this shares correctly. We'll see. Um.

[00:24:11] Ok. All right. So the Legislature this year changed aspects of the health board's authority to adopt regulations, and so instead of adopting regulations, the health board now makes a recommendation to a local governing body. We have a city county board of health, and so the law establishes that the local governing body for a city county board of Health is what is established in the inner local agreement. And so we do. I know there is an intention to open up and look at the inner local agreement in the coming months. But until then, we met with the city and county and board leaders, and everyone agreed that it was appropriate for the board of County Commissioners to be considered the local governing authority for this reason. Until the inner local agreement, or unless the inner local agreement says something different. And so just because we wanted to. Let's say something. There we go, advancing. We just really wanted to take a conservative approach to make sure that there was absolutely no gap in applicability or enforcement of the health code this this law went into effect immediately. But it it looks forward from now forward. But just to make sure that that we were on solid footing, the health board made a recommendation to the BCC to go ahead and adopt the health code and associated fees by reference and to do that first by an emergency ordinance and then to also start the regular ordinance procedure. And that is because it looked like did the board have authority anymore? That was a question. We just didn't even want to get into that gray area and just made sure that our health code was enforceable and in in effect.

[00:26:23] So at a public hearing on April 15th, BCC did adopt the emergency ordinance that adopted the entire health code and associated fees by reference. And at that same hearing, the PCC also started the regular ordinance process, which takes both a first reading and then at least 30 days later, in this case, a second reading and final adoption. So because it's a code that's being adopted by reference, there's a few very specific requirements. One is that the code to be adopted by reference is filed with the clerk and recorder for at least 30 days before final adoption. So we did that on April twenty six. And then there's also a requirement to publish an intent to adopt the or to create the ordinance. And so we did that through a legal notice in the Missoulian. And then we also had information on our website. And of course, there's also the public notice that goes along with the BC agenda and public posting of the agenda. So just as a quick reminder, the health code has an administrative section and then eight rules. So we are we

are asking that you adopt that in its entirety, except for one section and the administrative section. And that is because the Montana code annotated specifically says that local government can't adopt penalties by reference and so instead the ordinance. The resolution in the ordinance has a penalty section, and that penalty section mirrors both what's allowed to the penalties that are established in law for ordinances and also the penalties established in law for violations of Title 50 or the the Health Health Regulations.

[00:28:38] So there's there's not a conflict there. And then the other regulations that are contained in the health code are wastewater treatment and disposal systems. That's basically septic systems and on-site mostly onsite wastewater disposal, large group public functions, solid waste management, which has a lot to do with garbage and littering. You can't burn garbage, food service establishments, drinking water, well protection. That's our well permit regulations drop in child care facilities, which is something that is not covered well by the State Child Care Regulations. And so we have a local regulation on that rabies control and then trailer court and campgrounds, which basically establishes a re-inspection fee for those. And then along with that, there are fees, these fees have not been changed since January 2020. They went into effect January. Oh, I'm sorry, I keep saying that January twenty nineteen. And they have to do with I know this is small, but groundwater monitoring the large group function permits the licensed establishments specifically plan reviews and our temporary food service permit fees and inspections are septic. Wastewater regulation fees that includes site evaluations and subdivisions of metals, well permits and then our variance applications. So our recommended emotion are recommended emotion and emotion is to approve resolution 20, 20 one zero zero zero seven seven, which approves the second and final adoption of the ordinance, adopting the Missoula City County Health Code and associated fees by reference. That is the end of my presentation.

[00:30:35] Thanks, Shannon. Is there any public comment? On this item.

[00:30:42] I should I'm sorry, I should I failed to say that we didn't receive any written comment at the health department or violet when I when I took with Violet yesterday, late afternoon. So we didn't receive any written public comment.

[00:30:58] Ok. So this would be folk's chance right now to offer verbal public comment on final adoption in the Missoula City County Health Code and associated fees by reference.

[00:31:11] Just Anna Conley, have anything to add.

[00:31:16] Way to put her on the spot. Is there anything that you would like to add?

[00:31:21] Shannon's a better lawyer than I am. No, thank you.

[00:31:27] That's not true.

[00:31:29] All right, thank you. Any public comment? See that I'll close the public hearing any questions Juanita?

[00:31:37] No, I don't have anything. Thank you, Shannon and Anna, for walking us through this.

[00:31:46] Ok? How about a motion

[00:31:47] You've got in motion that the board approve the second and final adoption of the Missoula City County Health Code and associated fees by reference.

[00:31:57] I will second that any further discussion. Seeing none all in favor, please say, I,

[00:32:03] I.

[00:32:05] Ok, thank you.

[00:32:08] Thank you. And so concludes all of our public hearings today, is there any other business to come before the commission today? Seeing none at two thirty two. We will be adjourned.

[00:32:22] Well, then thanks everyone. Thank you. Goodbye.