

Missoula Board of County Commissioners

PUBLIC MEETING MINUTES COVER SHEET



THURSDAY, APRIL 28, 2022 – 2 PM

Hybrid meeting – Missoula County Courthouse Annex Sophie Moiese
Room/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:

Acting Chair Slotnick
Commissioner Strohmaier

Staff Present:

Violet Plummer, Administrative Assistant, Commissioners' Office
John Hart, Civil Deputy County Attorney, Attorney's Office
Nick Zanetos, Planner, Community and Planning Services
Matt Heimel, Planner, Community and Planning Services
Shane Stack, Director, Public Works
Tim Worley, Senior Planner, Community and Planning Services

1. **CALL TO ORDER** *[Time stamp – 00:10]*
2. **LAND ACKNOWLEDGEMENT** *[Time stamp – 00:16]*
Missoula County acknowledges that this event takes place in the aboriginal territories of the Salish and Kalispel people.
3. **PLEDGE OF ALLEGIANCE** *[Time stamp – 00:26]*
4. **PUBLIC ANNOUNCEMENTS**
 - a. [Proclamation: Volunteer Month](#) *[Time stamp – 00:50]*
5. **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA** *[Time stamp – 02:07]*
[None]
6. [CURRENT CLAIMS LIST](#) *[Time stamp – 02:18]*
Claims received as of March 28, 2022 to April 19, 2022 by the Commissioners' Office total \$5,652,223.29.
7. **HEARINGS**

- a. **Tower Street No Parking Request** *[Time stamp – 02:42]*
Shane Stack, Director, Public Works

[Continued to May 12, 2022 Public Meeting]

- b. **River Watch Lot 12 Plat Adjustment** *[Time stamp – 05:19]*
Nick Zanetos, Planner, Community and Planning Services

Commissioner Strohmaier made the motion to approve the Lot 12 River Watch plat adjustment request, based on the findings of fact in the staff report, and subject to the recommended conditions of approval.

Commissioner Slotnick seconded.

[Motion passed 2-0.]

[Letter 2022-160. Mailed to: Ken Jenkins]

- c. **Missoula Development Park Phase 5C Plat Adjustment** *[Time stamp – 10:25]*
Matt Heimel, Planner, Community and Planning Services

Commissioner Strohmaier made the motion to approve the final plat adjustment request for Missoula Development Park Phase 5C, based on the findings of fact and conclusions of the staff report, and subject to the recommended condition of approval.

Commissioner Slotnick seconded.

[Motion passed 2-0.]

[Letter 2022-169. Mailed to: Anna Vickers, IMEG Corp.]

- d. **Emerald Lake Estates Phase 2 Plat Adjustment** *[Time stamp – 14:06]*
Matt Heimel, Planner, Community and Planning Services

Commissioner Strohmaier made the motion to approve the final plat adjustment request for Emerald Lake Estates Phase 2, based on the findings of fact and conclusions of the staff report, and subject to the recommended conditions of approval.

Commissioner Slotnick seconded.

[Motion passed 2-0.]

[Letter 2022-168. Mailed to: Ron Ewart, Professional Consultants, Inc.]

- e. **Fesler Family Transfer** *[Time stamp – 21:57]*
Matt Heimel, Planner, Community and Planning Services

Commissioner Strohmaier made the motion to approve the family transfer exemption request by Mark and Shawna Fesler, as presented in the subdivision exemption affidavit.

Commissioner Slotnick seconded.

[Motion passed 2-0.]

[Letter 2022-167. Mailed to: Mark and Shawna Fesler]

- f. **Olson Family Transfer** *[Time stamp – 26:58]*
Matt Heimel, Planner, Community and Planning Services

Commissioner Strohmaier made the motion to approve the family transfer request by Terry Olson, as presented in the subdivision exemption affidavit.

Commissioner Slotnick seconded.

[Motion passed 2-0.]

[Letter 2022-166. Mailed to: Terry Olson]

8. **OTHER BUSINESS** *[Time stamp – 33:03]*
[None]

9. **ADJOURN**
Acting Chair Slotnick – Called the meeting to adjourn at 2:33 p.m.

BCC Public Meeting April 28, 2022 – Transcription

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[00:00:05] I think it's perfectly. All right. We will call this meeting to order for Thursday, April 28th, and we'll begin with a land acknowledgement. Missoula County acknowledges that this event takes place in the Aboriginal territories of the Salish and Kalispell people. Would you all join me in the Pledge? Just to see the flag. United States of America. To the republic for which it stands. The nation. Physical liberty and justice for all. Do we have any public announcements?

[00:00:54] Looks like we have a proclamation today.

[00:00:56] I read it. Yes, please.

[00:00:57] Do. Okay. This is a proclamation of Missoula County and the city of Missoula, where, as volunteers are one of our country's greatest resources. And. Whereas, volunteers had to adapt to the changing needs of the community during the pandemic, and they showed their resilience and creativity in finding new ways to help people and encourage others. And. Whereas, these volunteers improve our community with their dedication, willingness to share time and expertise and ability to meet community needs to make a lasting difference. And. Whereas, we wish to honor and recognize volunteers collectively and the many contributions they make that enhance Missoula County's quality of life. Now, therefore, we John Egan, mayor of the city of Missoula and the Missoula Board of County Commissioners in coordination with Missoula Aging Services, do hereby proclaim the month of April 2022 as volunteer month, and we encourage all citizens to join us in recognition of our county's volunteers this month and throughout the year. The entire year. Thank you, volunteers.

[00:02:04] Thanks, Dave. Okay. Do we have any public comment on items? Not on the agenda. All right. See, none will let you know about our current claims list. Claims received as of March 28, 2022 to April 19, 2022 by the Commissioner's Office total \$5,000,652 and \$5,652,223.29. We have one, two, three, five, five, six hearings today, and our first one is on Tower Street. No parking request. I believe Shane Stack will speak about this.

[00:02:50] Good afternoon, commissioners. All share my screen. I don't know if this is going to take a lot of time or not, but I'll quickly run through this. Let me know when you can see my screen.

[00:03:01] There we go.

[00:03:03] All right. So I don't know if you recall, but Kirk, Jennifer, who owns this property at 3414 Tower or South Avenue, I guess it could be South Avenue. He had reached out and had had concerns with folks parking on Tower Street that were also attending events at the park. So he reached out to some of his neighbors and they signed a petition. So the people that signed the petition are the offers. Brian Porch owns this property on Tower Street and then the Wilsons that own this property along Tower Street. And so they've requested a no parking zone. And I will show you what that would look like. These lines in red simply represent the areas where they've requested to restrict parking. So it would be in front of the petitioner, Mr. Jennifer and also the two petitioners that are on the east side of Tower Street. So just asking for public comment on the idea of a no parking resolution to restrict parking along Tower Street in the areas depicted in Red. I have a have this on an agenda for the week. It's the may I want to say the May 15th meeting or the May 12th sorry, May 12th meeting where we would make a formal decision. But just asking for public comment today.

[00:04:39] Great. Thanks, Jane. So we just keep this open and how that works or we have to. Is this a specific resolution? Okay. Great. Here we go. And if people want to comment and send something in before that may date, they're welcome to do that.

[00:05:07] Yeah. I don't know if there's anyone online who might want to comment.

[00:05:14] Okay. Great. Thanks, Jane. All right. Thank you. So our next hearing is on River Watch Lot 12, a plat adjustment. And Nic is going to talk about it.

[00:05:27] Thank you, commissioners. My presentation.

[00:05:29] Going. So this.

[00:05:38] Is a adjustment request from Jerry and Lois Cobalt to adjust the building envelope on Lot 12 of the River Watch.

[00:05:46] Final Plat.

[00:05:51] Sorry. You can't get my mouse here to. One day I don't bring a mouse to the hearing. I want to hear. There we go, starting with some background on the project. River Watch was originally approved as a 15 lot subdivision in 1998. It is divided in two phases. Phase one was filed in November of 98 and phase two was filed in May of 98. Sorry, may have 99. The subdivision is located south of Salmon Lake, on the west side of Highway 83, and many of the lots board are Black Lake, which is part of the Clearwater River complex. The area is zoned and the growth policy covers this area as the 2010 Silver Lake Plan, which calls this area resource protection. And then at the time of subdivision review, building envelopes were designated on the face of the plat for each lot within the subdivision. So the adjustment request is to move the file, plant the building envelope from the west side of the property, which is close to Black Lake to the eastern side of the property, which is closer to Highway 83. Oh, the the application was sent out to Missoula County agencies for comment. We received two comments. The first is from the Floodplain Administrator, which commented that he supported moving the proposed building envelope, which would be moving it further away from non FEMA designated floodplain. Then the Health Department commented that the project will require a revised sanitary lot layout if they are proposing to move any sanitary facilities, water, wastewater or stormwater.

[00:07:52] The project was noticed in the Missoulian and the Pathfinder on April 17th and April 24. No comments came from those postings. So looking at the review criteria for adjustments to file plat, we look at section 6.7.4 of the Missoula County sub regs. Nick over some important staff findings from the staff report related to these review criteria so that the request is deemed minor in nature. Moving the building envelope would improve access to Lot 12. It would reduce the amount of ground disturbance needed to develop a driveway and home homesite. It would reduce the need to pump sanitation uphill to the already approved drain field location and would also preserve 12 trees. Moving the proposed envelope on Lot 12 would also result in the buildable portion of Lot 12 adjoining to a large common area within the subdivision, which would help connect already established open space and that would help with connectivity for wildlife corridors. Last, the Seeley Lake plan does support land use patterns that protect and preserve natural resources. So in conclusion, staff is recommending approval of the plat adjustment. There are two conditions that we have for approval. The first is that the exhibit showing the building envelope modification shall be reviewed and approved by Cavs prior to recording. And the second is that that exhibit shall be recorded no later than 60 calendar days from governing body approval. That is all I have on my end.

[00:09:33] Thanks, Nick. Do we have the developer developer's representative under the property like to say anything?

[00:09:41] We do have the owner or Jerry that is available here for comment and I don't think he was planning on speaking. But if you have any questions for him, he will certainly ask them. Great.

[00:09:50] Any public comment on this? Any questions? Questions. I think this seems quite straightforward. Thank you.

[00:10:03] Yeah, this does seem fairly straightforward. So I'd move to approve the lot 12 River Watch Pilot Adjustment request based on the findings of fact in the staff report and subject to the recommended conditions of approval.

[00:10:15] Wonderful. All right. All in favor, I. Thanks, Nate. Thank you.

[00:10:21] All right. Thank you.

[00:10:25] All right. We're moving right along. Next up is a missoula development park. Phase five c plat adjustment in matt malone. Do the talking.

[00:10:35] All right. Good afternoon, commissioners. Matt Hymel here with CAPS. I'll bring up a brief PowerPoint once I can figure out. There we go. We'll get there. Okay. There might be a delay in having it show up as a full screen. But so this is a broad aerial map showing the lots highlighted in blue. So this is our request from Missoula Land and Cattle LLC, represented by Anna Vickers with Image Corp for a adjustment to the final plat for Missoula Development Park. Phase five See. And the purpose of this request is to abandon a 20 foot wide utility easement that was platted with phase five C. Okay. Just a moment while we adjust the. There we go. Okay. So here is a closer aerial image highlighting lots one through six. Lots are currently vacant and this image is the proposed condition exhibit from the application showing the location of the utility easement in red. A utility locate call report indicates that there are no utilities present in the easement, so staff is supporting the request to abandon that utility easement. All of the rights of way surrounding the properties including Tanager, Way East Harrier Technology Court and Express Way have utilities and are also public utility easements. So utilities will remain to be available for all lots if this is abandoned. The staff again is recommending approval of this request after review based on the criteria for final plot adjustments. So on the screen here, the criteria and we found no conflict with those plot adjustment criteria. So. Here is a recommended motion. And I'll also note that we're recommending one condition of approval that simply is that it needs to be filed within 60 days per the subdivision regulations.

[00:13:10] Thank you, Matt.

[00:13:11] All right.

[00:13:12] Anna, do you have anything to say on this one? No, thank you, Matt, for doing such a great job. I appreciate your time today. Craig, any public comment on this? Many questions on this incredibly complex land use matter.

[00:13:31] I know they're just getting more nail biters as we go along here today, so I'm ready for emotion. Excellent. I move to approve the final plat adjustment request for Missoula Development Park Phase five. See, based on the findings of fact and conclusions of the staff report and subject to the recommended conditions of approval.

[00:13:58] Great. All in favor. I. Thanks. Thank you. Thanks, Matt. You get the next one, the Emerald Lake Estates, Phase two Plat Adjustment. Lots are getting adjusted today.

[00:14:14] That's right, Commissioner Matt Hymel. Again, with caps, I'm just going to bring up another another PowerPoint. So on the screen, you'll see a broad aerial image showing an area that's about one and a half miles east of Salmon Lake on Woodward Woodworth Road. And the area highlighted about in the red circle is the Emerald Lake Estate subdivision. And this is a request to amend or adjust that final plat for phase two. And the request is coming from the owners of lots three and four. About three is owned by Greg Hamilton and GMH investments and Lot As four is owned by Jeff and Millicent Holbrook, both represented by Ron Ewart with Professional Consultants, Inc.. And so the purpose of this plat adjustment request is to modify no build and no alteration zones that are platted on lots three and SE four. So lot three is the southern lot highlighted in blue. Lot SE four is the northern one highlighted in blue? A identical request to adjust these no build zones was approved last May. However, the request was not filed based on the 60 day filing deadline and the Missoula County regulations do not provide for extension. So unfortunately we had to come back for a RE review. The findings are essentially the same, except for referencing the prior approval and the fact that no substantial conditions have changed since May of last year and the recommended conditions of approval are the same. So this shows the lots three and four, the kind of darker gray

areas are the current no bill two no alteration zones that were. Platted on the subdivision, which was approved in 2007 with 33 conditions of approval.

[00:16:24] Also per a settlement agreement. Here is a contour sheet showing some conditions on lot three. Note that North is pointing towards the northwest or the upper left hand side. And on the left hand side, you see current mobile zones are in in yellow. And on the right hand side. The image indicates that grading should show that the area is suitable for for building. And the root of the issue is that at the time of subdivision review and application in 2005, those no bill and no alteration zones were delineated based on aerial mapping. Since then, conditions have changed based on reclamation from prior mining activities and piles of gravel and on the ground surveying shows that these are in fact a level and should be suitable for building areas as would be verified through the conditions of approval. And here is another sheet for lots. Four areas in light green are currently. No build, no alteration zones and the areas in red which is substantially reduced, are based on more recent all the ground surveying. So here again are the criteria for pilot adjustments. And in this review, we found that there are no conflicts with these criteria and our recommended approval with two conditions of one condition, most notably for review of driveway plans, because Emerald Lake Estates had conditions of approval for review and approval of driveways that have adequate emergency access. So we want to make sure that before the build zone and alteration zones are modified, that the site plans for those building sites will in fact have adequate emergency access. So with that, again, staff is recommending approval of this request.

[00:18:19] Thanks, Matt. Ron, do you want to say anything on this?

[00:18:30] I just wanted to say, first of all, it takes a lot. Some people. I've been here. Try to. Plants. Doesn't point. For. All those years. I just. Always.

[00:20:43] Ron, is your microphone on? Probably not. Can you repeat everything that you just said? Well.

[00:20:49] I can. I can consolidate it. Tote Lake used to be a mining area and today it's it's been reclaimed. And it's much nicer with a lot of credit to to Greg Hamilton and other folks that that the development. Okay I didn't know there's a button here. You got to be there.

[00:21:10] So it's all right.

[00:21:12] I was on mute. Thanks.

[00:21:17] Why do we have any public comment on this? Did you have any questions?

[00:21:24] I don't think so. This is like deja vu.

[00:21:27] Yeah, I remember this one. Nothing's changed other than the 60 days elapsed, and we have to do it again. Okay. I'm ready. Go.

[00:21:36] I would move to approve the final plat adjustment requests for Emerald Lake Estates Phase two based on the findings of fact and conclusions of the staff report and subject to the recommended conditions of approval.

[00:21:49] All right, all in favor. Say hi. Hi. Hi. Thanks, Ron. Thanks, Matt. Thanks, Ron. And Matt is up again with a pair of family transfers.

[00:22:03] All right, Matt Hymel again with Caps. I believe Besler is number one.

[00:22:08] Yes, Besler comes first and then Olsen.

[00:22:17] So this is a request from Marc and Shauna FESSLER to utilize a family transfer exemption to the Montana subdivision and Platting Act. And they are represented by Maurice Hale with Ely and Associates. The property shown in this broad aerial image surrounded with the blue oval, is located at 130555 Highway 93 South in Iolo. It's about a mile and a half south of the central area of Iolo. And just immediately south of Mormon Creek Road. Here is a closer aerial image showing Highway 93 South on the right hand side of the property bounded by

the green and black line is currently developed with one single family residence, a shop and some accessory structures with a driveway with direct access onto highway. 93. The request is to divide the three acre subject property into two tracks and with the intent to convey one new track that will be three fourths of an acre on the West portion to Mark's father. The property is un zoned and it is described in the 2002 Lolo regional plan as general commercial. And although the growth policy does not describe residential use or give a recommended residential density, having a two lot family transfer does not necessarily undermine the goals of commercial center and staff's review.

[00:23:52] So here is a proposed configuration. As you can see, there would be a new tract on the West End, about three quarters of an acre that would be transferred to Mark's father during the Monday BC Capps update. It came up as to whether this will be served by sewer or septic. We need to confirm that the lolo water and sewer are number 88901 is is not able to serve this property nor are they able to request connection. So this project would need to undergo sanitation review or what I think would be either a individual or shared septic. So that will need to be reviewed by environmental health prior to filing. So in staff's analysis, we did not conclude that this appears to be an attempt to evade subdivision review. With that, I do have some questions for the claimant or for their representative. Could the claimant or the representative please state their name for the record?

[00:25:00] Yes, my name is Mark FESSLER.

[00:25:03] Okay. I have five questions for you. One, did you buy the property with the intent of dividing it? No. Thank you. Two, do you or your transferees intend to transfer the property within the next year?

[00:25:18] No.

[00:25:19] Thank you. Three. Have you talked with anyone of the county about going through subdivision review?

[00:25:25] No.

[00:25:26] Thank you. Commissioners, I will note we did have a scoping meeting just about this family transfer request last year, which we appreciate doing with with anyone. Number four. Will the property be developed? Yes. And last but not least, will the recipient of the property be residing on the property? Yes. Okay. That concludes my presentation. Commissioners, we're recommending approval.

[00:25:55] Thank you. Would the wrestlers like to say anything? I just so we. I mean, my dad has worked hard his entire life. And with my mom having some medical.

[00:26:11] Issues.

[00:26:12] This came up to be able to try to help him out. And I just really.

[00:26:17] Appreciate you guys considering this.

[00:26:19] Thank you. Have any public comment on this? Wmd questions. Questions? No, it's looks pretty straightforward. Entertain emotion. Yes.

[00:26:36] And I love straightforward family transfers. So here we go. I moved to approve the family transfer exemption request by Marc and Shauna FESSLER as presented in the subdivision exemption affidavit.

[00:26:48] Thanks. All right. All in favor. Hi. Hi. Thanks. Thank you. Next up is the is Matt with the Olsen family transfer.

[00:27:01] All right, Matt Hymel here again with Caps. I will load up the Olsen project. I confuse myself. The map is so similar. So this is another family transfer request brought to us by Teri Olsen requesting to utilize the exemption from the Montana Subdivision Planning Act. You create and transfer one parcel to an immediate family member, the claimant has stated, as is Terri Olsen, and the property shown in this broad image and I'll zoom in a little bit here is located at 11 905. Lewis and clark drive in lolo. The property is about 2.6 acres an area it is zoned

and it is described in the 2002 lolo regional plan as multi-family residential with the recommended density of 16 dwelling units per acre. So this transfer would result in one unit per about 2.3 acres. So it's less than what's recommended by the growth policy, but of course not in gross noncompliance with the growth policy. So the proposal is to transfer one new tract on the north portion to the claimant's daughter. That would be about a half acre in area and the claimant would retain ownership of and continue reciting on the southern about 2.1 acres of the subject property. It's currently developed with.

[00:28:35] One single family dwelling and accessory structures with direct access onto Lewis and Clark Drive, which is a county maintained road. And the intended recipient is Brooke Hogan, the claimant's daughter. So in our review, we found that this did not trigger a single rebuttable presumption or evasion criteria. So that that's always nice. And staff is recommending approval, of course. So with that, I have my standard questions for the claimant or their representative. And I see Arie Olson is on the call. So if you could please state your name for the record. Teri Olson. Thank you. So I've got five questions. One, did you buy the property with the intent of dividing it? No. Thank you, too. Do you or your transferees intend to transfer the property within the next year? No. Thank you. Third question, have you talked with anyone at the county about going through subdivision review? Yes, I talked with Matt Hymel with planning and zoning. Brian Clifton with the Health Department and tight clients with the floodplain administration. Thank you. And for will the property be developed? Yes, it's a matter of fact. Our daughter is planning to build a four bedroom single family home which will tie into the local sewer system for the water tie in.

[00:29:54] We are aware of the requirement to tie into the local water system if within 500 feet from the water lines. The closest line is approximately 300 feet, but crosses the railroad right of way. It is not accessible by normal means and to do so would result in excessive costs. It is also not recommended by Jason Nees but the lolo sewer and water to cross this right of way. He estimates to directly drill under the railroad tracks is in excess of 30,000. Pci has submitted a request to receive a waiver from the county and DEC on our behalf. With this being said, the primary option for water will be to hook up to an existing well that is shared between us and the neighbors. The backup option will be to drill a new well. The estimated location of new well was submitted within this application. Sure I can circle back to the water and sewer connection requirements. I just have a fifth question. Do you appreciate Mr. Olson's response to number four? And just our last question. Would a recipient of the property be residing on the property? Yes.

[00:31:10] Okay.

[00:31:12] So to circle back on some of the water and sewer aspects, we did receive a comment from Missoula County Public Works during this review that the property would need to connect into our city. Number 8901 lolo. Water and sewer. Pretty new growth here. So that water and sewer connection would be required in the family transfer review. It's strictly to create this new exempt tract. So if the Family Transfer Review is or if the family transfer request is approved today, then the property owner would still need to undergo sanitation review prior to filing that. So it sounds like there are some engineering and cost concerns that will need to be considered by the claimant prior to having that at all approved and filed.

[00:32:09] Right. Thanks. Understood. Do we have any public comment on this? Okay. Dave, do you have any questions?

[00:32:20] No questions. I'll just editorialize here slightly. For those of you out there in the development, our friends and the development community, these are the sorts of family transfers that we love to see. So take that for what it's worth.

[00:32:34] No rebuttable presumption. Sounds fantastic.

[00:32:38] Hey, do we have a motion? All right. I would move to prove the family transfer exemption request by Terry Olsen as presented in the subdivision exemption affidavit.

[00:32:48] All right, all in favor. Thanks, Matt. Thanks.

[00:32:54] Thanks, Mr. Olsen.

[00:32:55] Thank you. That seems to be a record time for this number of hearings. So unless we have any other business. We can be adjourned. Thanks. She's perfect.