
MONDAY, DECEMBER 15, 2008

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Brenneman and Lauman, and Clerk Robinson were present.

Commissioner Lauman PT opened public comment on matters within the Commissions' Jurisdiction, no one present to speak, Commissioner Lauman PT closed the public comment period.

MONTHLY MEETING W/ JIM ATKINSON, AOA

[9:02:55 AM](#)

Members present:

Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman PT

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Clerk Kile

Atkinson reported 3,000 additional meals were served between 2007 and 2008 compared to 2006 and 2007. Also noted were information assistance calls are up also with 9,000 in 2007 and this year to date 13,000 calls have been received.

Discussion was then held relative to AOA drivers delivering groceries to shut ins for Sykes Grocery.

MEETING W/ RAEANN CAMPBELL, HUMAN RESOURCE OFFICE

[9:30:39 AM](#)

Members present:

Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman PT

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, HR Director Raeann Campbell, Public Works Director Dave Prunty, Clerk Kile

Campbell reviewed the progress in the central pension plan for Operating Engineers in Solid Waste and Operators for the Road and Bridge Department. Commissioner Brenneman inquired if this discussion involves interpretation of state statute. Campbell stated that the correspondence from the attorneys stated that the pension plan can be done either way in regards to a wage being a wage and a benefit being a benefit. Prunty stated he supported a wage being a wage and a benefit being a benefit. There was further discussion regarding this matter.

Discussion was then held relative to the wellness plan proposal presented to the commission to encourage employees to be more aware of their health. There would be an increase in the current deductible and an increase in dependent claims along with the maximum out of pocket expense. The proposal would allow the employee to buy down their deductible when they participate in the annual withdrawal and health risk assessment. Campbell stated this could be done through the Health Department or through the physician of their choice and provide documentation the assessment was done. There was further discussion regarding this matter.

Commissioner Brenneman made a **motion** to approve the medical cost sharing benefit. Commissioner Lauman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

PRELIMINARY PLAT: HODGE CREEK SOUTH, LOT 5

[10:00:33 AM](#)

Members present:

Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman PT

Members absent:

Chairman Gary D. Hall

Others present:

Planner Allison Mouch, Narda Wilson, Joe Kauffman, Clerk Kile

Mouch entered into record Staff Report FPP 08-18; an application submitted by Mark and Kathryn Panicek with technical assistance from Narda Wilson, Big Sky Surveying and Enviro-Tech Consulting for preliminary plat approval of Hodge Creek South, Lot 5. The applicant proposes to create 2 residential lots located off of Hodge Creek Drive west of Kalispell. The lots would be 9 acres and 11 acres in size and would be served by individual well and septic systems. Staff did not support the variance requested by the applicant. Mouch further discussed easements across state trust lands, air quality, paving requirements and the requested variance.

Commissioner Brenneman suggested amending condition 23 to state: Ashley Lake Road crosses two different sections of State Trust Land and the Department of Natural Resources and Conservation has requested that the applicant perfect legal access of Ashley Lake Road in cross section 8 and 16.

Commissioner Brenneman made a **motion** to amend Finding of Fact 23. Commissioner Lauman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

Findings of Fact 12 was amended to state: The proposed subdivision will result in a traffic increase of 10 vehicle trips per day and may result in increased dust on Ashley Lake Road; a gravel county road. Air quality issues may be mitigated by conditions placed on the preliminary plat. Staff finds the dust control mitigation plan submitted with the application adequately addresses construction related dust and air quality issues.

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(Continued)

Commissioner Brenneman made a **motion** to adopt findings of fact. Commissioner Lauman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

Narda Wilson, 184 Midway Drive representing the applicant reviewed the applicants request for a variance and asked that the easement remain as it. She then spoke about the paving requirement of 649 feet and stated that it would be cost prohibitive and asked that an alternative amount be considered.

Commissioner Brenneman noted that in order to grant a variance that all 5 requirements had to be met.

Wilson stated a variance application was submitted that she felt adequately addressed the requirements. She then reviewed the criteria submitted in the application.

Commissioner Brenneman said he felt the proposed findings make assumptions about the easements that cannot be made and stated he was not in favor of granting the variance. He further said he did agree that 679 feet of paving is unreasonable.

Wilson stated that an engineers estimate and certification for the cost of paving 75 feet could be included at the time of final plat with the amount of cash-in-lieu.

Condition 16 was amended to state: The applicant shall pave 75 feet of Ashley Lake Road from the end of the existing pavement north.

A condition will be added to the face of the final plat that states: Ashley Lake Road crosses state trust land for which a perfected easement may not exist.

Commissioner Brenneman made a **motion** to approve preliminary plat of Hodge Creek South, Lot 5 with amended conditions. Commissioner Lauman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

STANDARD CONDITIONS

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 4.7.17(iv), Flathead County Subdivision Regulations (FCSR)]
2. A dust control plan shall be submitted that addresses measures to minimize construction dust and includes post-construction dust mitigation measures. [Section 4.7.14, FCSR]
3. The applicant shall comply with reasonable fire suppression and access requirements of the Smith Valley and Marion Rural fire districts. Letter(s) from each district stating that the plat meets all applicable requirements of the fire district shall be submitted with the application for Final Plat. [Section 4.7.27, FCSR]
4. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.26, FCSR]
5. All internal subdivision roads shall be certified by a licensed engineer and constructed in accordance with the Flathead County Minimum Standards for Design and Construction. [Section 4.7.17, FCSR]
6. With the application for final plat, the applicant shall provide a Road Users' Agreement for Hodge Creek Drive which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.16(e), FCSR]
7. New electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.24, FCSR]
8. The proposed water, wastewater treatment and stormwater drainage systems for the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 4.7.13, FCSR]
9. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.29, FCSR]
10. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. Address numbers shall be posted at the commencement of construction and be clearly visible at all times thereafter. Numbers shall be placed in the driveway entrance and at any subsequent divergent points of access for shared driveways. All address numbers shall be displayed on a contrasting background using a minimum four-inch numeral height. [Section 4.7.27.c, FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.24, FCSR]
 - c. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.23, FCSR]
 - d. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.26, FCSR]
 - e. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]

MONDAY, DECEMBER 15, 2008
(Continued)

f. Waiver of Protest
Participation in Special Improvement District
[per County Resolution 503-M]
_____ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes _____ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that _____ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. _____ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for _____ Subdivision.

11. The final plat shall comply with state surveying requirements. [Section 76-3-608(b) (i), M.C.A.]
12. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained and provided to the Flathead County Planning & Zoning office prior to any site disturbance or construction. [17.30.1115 Administrative Rules of Montana (A.R.M.)]
13. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.4.27 (for major subdivisions) or Section 4.2.19 (for minor subdivisions), FCSR]
14. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.4.22 (for major subdivisions) or Section 4.2.15 (for minor subdivisions), FCSR]
15. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. [Section 4.4.20 (for major subdivisions) or Section 4.2.13 (for minor subdivisions), FCSR]

PROJECT SPECIFIC CONDITIONS

16. The applicant shall pave 75 feet of Ashley Lake Road, from the end of the existing pavement north, or offer cash-in-lieu as an alternative to meet the requirement set forth in Section 4.7.18 of the Flathead County Subdivision Regulations. The cash-in-lieu equivalent of 75 feet of pavement shall be determined by the County or a licensed engineer at the time of final plat submittal.
17. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. This subdivision is located in an agricultural/silvacultural area and potential nuisances such as noise, dust, odors and irregular hours of operation are commonplace. As such, the right to farm/log on adjoining properties will not be restricted as a result of the development or occupancy of this subdivision.
 - b. Lot owners should be aware they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
 - c. The property owners association or road users' agreement will govern maintenance of the private primary access road and secondary access road. The road will be maintained, including necessary repairs, snow removal and dust mitigation, to ensure safe all-weather travel for two-way traffic and to reduce negative impacts on air quality.
 - d. Only class 'A' or 'B' fire rated roofing materials are allowed on structures within the development.
 - e. Defensible space standards shall be incorporated around all primary structures.
 - f. Lot owners are alerted to the presence of potentially dangerous wildlife in the area and are reminded that feeding big game is illegal.
 - g. Lot owners are strongly encouraged to contact the Montana Department of Fish, Wildlife and Parks to obtain information on safely living near wildlife and minimizing habitat impact, including such things as bear proofing, pet control, and removing food sources.
 - h. No further subdivision is allowed.
18. A "no-build" zone shall encompass the wetlands, seasonal pond, intermittent stream and ephemeral drainage area on the subject property in addition to 100-foot buffer extending from the designated high-water mark (3,862 feet) surrounding all sensitive wetland area. The "no-build" zone and 100-foot buffer shall be shown on the face of the Final Plat.
19. The existing 60-foot access easement across proposed Lot 5B shall be realigned along or beyond the lot boundary to the south or abandoned, to comply with Section 4.7.7(b) of the Flathead County Subdivision Regulations. A valid, updated "Agreement to Relocate and Define Easement Rights-of-Way" shall be submitted prior to final plat approval. Alternatively, the applicant may enter into a boundary line adjustment to remove the easement from the property.
20. Letters confirming the structure fire agreement from both the Marion Rural Fire District and the Smith Valley Rural Fire District shall be submitted prior to final plat approval.
21. The following statement shall be placed on the face of the final plat:

Ashley Lake Road crosses State Trust Land, for which a perfected easement may not exist.

MONDAY, DECEMBER 15, 2008
(Continued)

PRELIMINARY PLAT: TIMBER BAY TOWNHOUSES

[10:42:24 AM](#)

Members present:

Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman PT

Members absent:

Chairman Gary D. Hall

Others present:

Planner Dianna Broadie, Bryan Long, Clerk Kile

Broadie entered into record Staff Report FPP 08-17; an application submitted by Montana Build Construction, LLP with technical assistance from Long Engineering for preliminary plat approval of Timber Bay Townhouses. The proposal is for a townhouse subdivision consisting of two separate buildings with each building containing 4 units. Each unit would have a single lot that includes the footprint of the unit with the open porch area facing Commerce Street. There will be a common lot containing open space, individual unit walkways and parking. The site sits between Commerce Street and Terrace Hill Road with access from Terrace Hill Road. A conditional use permit was reviewed and approved for one 8 unit structure. The applicant submitted a second conditional use permit for a modification to the original permit which reconfigured the building and some of the parking. The purpose of the subdivision is to be able to market the structures differently but will comply with the conditions in the CUP.

Commissioner Brenneman made a **motion** to adopt findings of fact for Timber Bay Townhouses. Commissioner Lauman PT **seconded** the motion. **Aye** Brenneman and Lauman. Motion carried by quorum.

Commissioner Brenneman made a **motion** to approve Timber Bay Townhouses. Commissioner Lauman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

Conditions

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 4.7.17(iv), Flathead County Subdivision Regulations (FCSR)]
2. The applicant shall show proof of a completed approach permit to Terrace Hill Road from the Flathead County Road Department indicating the approach has been built and received final inspection and final approval. [Section 4.7.17, FCSR]
3. If construction is not complete at the time of submittal for final plat, a dust control plan shall be submitted that addresses measures to minimize construction dust and includes post-construction dust mitigation measures. [Section 4.7.14, FCSR]
4. The applicant shall comply with reasonable fire suppression and access requirements of the applicable fire district. A letter from the fire chief stating that the plat meets the requirements of the fire district shall be submitted with the application for Final Plat. [Section 4.7.27, FCSR]
5. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.26, FCSR]
6. New electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.24, FCSR]
7. The proposed water, wastewater treatment and stormwater drainage systems for the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 4.7.13, FCSR]
8. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.29, FCSR]
9. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. Address numbers or unit designations shall be posted and be clearly visible at all times.
 - b. All utilities shall be placed underground. [Section 4.7.24, FCSR]
 - c. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.23, FCSR]
 - d. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.26, FCSR]
 - e. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]

f.

Waiver of Protest
Participation in Special Improvement District
[per County Resolution 503-M]

_____ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes _____ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that _____ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. _____ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for _____ Subdivision.

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(Continued)

10. The final plat shall comply with state surveying requirements. [Section 76-3-608(b) (i), M.C.A.]
11. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.4.27 (for major subdivisions) or Section 4.2.19 (for minor subdivisions), FCSR]
12. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.4.22 (for major subdivisions) or Section 4.2.15 (for minor subdivisions), FCSR]
13. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. [Section 4.4.20 (for major subdivisions) or Section 4.2.13 (for minor subdivisions), FCSR]

Project-Specific Conditions

14. With the application for final plat, the applicant shall provide a maintenance agreement which requires each property owner to bear his or her pro-rata share for maintenance of lot 3 show as common area on the face of the plat. This agreement may be contained in a set of covenants and conditions.
15. The sidewalks and off-site parking improvements shown on the south side of the plat shall be complete prior to final plat.
16. Terrace Hill Road shall be and improved to paved county standards as certified by a licensed engineer, including a 24 foot travel surface, from its intersection with Grand Drive to the end of the access to the subject property prior to final plat.
17. A stop sign shall be installed on Terrace Hill Road where it intersects Grand Drive prior to final plat.
18. The applicant shall provide an appraisal of the unimproved land from a Certified General Appraiser, dated no more than six months prior to final plat application submittal, to set the baseline value of the parkland cash donation for the .06875 acres. Proof shall be provided that the cash donation has been paid to Flathead County at the time of final plat application. [Section 4.7.25(f), FCSR]
19. The applicant shall show proof of MDEQ approval for a stormwater plan to cover the improvements to the public right of way on Commerce Street.

DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #09-07-5-11-008-0

[10:46:51 AM](#)

Members present:

Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman PT

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Brenneman made a **motion** to approve DPHHS Contract 09-07-5-11-008-0 and authorized the chairman to sign. Commissioner Lauman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

CONSIDERATION OF RELEASE OF COLLATERAL: THE HOMESTEAD AT WHITEFISH

[10:49:40 AM](#)

Members present:

Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman PT

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Brenneman made a **motion** to approve the release of collateral for The Homestead at Whitefish. Commissioner Lauman PT **seconded** the motion. **Aye - Brenneman** and Lauman. Motion carried by quorum.

CONSIDERATION OF SIA: HARVEST VIEW SUBDIVISION

[10:53:29 AM](#)

Members present:

Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman PT

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Brenneman made a **motion** to approve the SIA for Harvest View Subdivision pending the SIA equaling 125% or more of the estimated cost of construction as referenced in Appendix E. Commissioner Lauman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

MONDAY, DECEMBER 15, 2008
(Continued)

CONTINUATION OF DOCUMENT FOR SIGNATURE: CONTRACT MODIFICATION NO. 2/ EAST EVERGREEN BIKE PATH

[11:03:33 AM](#)

Members present:
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman PT
Members absent:
Chairman Gary D. Hall
Others present:
Assistant Mike Pence, Planner Alex Hogle, Clerk Kile

Hogle noted clarification was received from NCI Engineering on questions pertaining to estimated mileage in regards to contract modifications on the East Evergreen Bike Path.

Hogle explained there will be a final inspection of the East Evergreen Bike Path this week and the only remaining item will be addressing the mailbox issues pending discussion and/or final resolution on this matter. Hogle also explained due to the cold weather, seeding and revegetation will be approached at the final inspection also.

Commissioner Brenneman inquired about the amendments to the contract from NCI Engineering. Hogle discussed and clarified with the commission the contract modifications. There was a brief discussion regarding prior water line issues which have been addressed. Hogle explained there have been two additional change orders in the project to date that could potentially cost the county an additional \$8,000.00 to \$9,000.00 for unforeseen project modifications.

Hogle also reported that the postal service previously expressed the easiest solution for the mailbox issue would be to place individual mailboxes across the street from each residence and continue to support that solution. There was further discussion regarding the mailbox issue, the daily fee for the temporary barrels and the importance of facilitation of a resolution.

Commissioner Brenneman made a **motion** to approve the contract modification to the East Evergreen Bike Path from NCI Engineering. Commissioner Lauman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: 911 LOT ESCROW AGREEMENT

[11:45:42 AM](#)

Members present:
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman PT
Members absent:
Chairman Gary D. Hall
Others present:
Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Mark Peck, Clerk Kile

Commissioner Brenneman made a **motion** to approve the 911 Escrow Agreement. Commissioner Lauman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

Commissioner Hall: RC&D meeting in Ronan

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 16, 2008.

TUESDAY, DECEMBER 16, 2008

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Brenneman and Lauman, and Clerk Robinson were present.

NO MEETINGS SCHEDULED

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 17, 2008.

WEDNESDAY, DECEMBER 17, 2008

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Brenneman and Lauman, and Clerk Robinson were present.

9:00 a.m. Commissioner Brenneman: Glacier Park conference call re: 2009 Transit Season
10:00 a.m. Commissioner Brenneman: Northern Tier Interoperability Project & BNSF meeting @ OES
11:00 a.m. County Attorney meeting @ Co. Atty's Office
12:00 p.m. Commissioner Brenneman: DUI Task Force meeting @ The Summit

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 18, 2008.

THURSDAY, DECEMBER 18, 2008

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Brenneman and Lauman, and Clerk Robinson were present.

Chairman Hall opened public comment on matters within the Commissions' Jurisdiction, no one present to speak, Chairman Hall closed the public comment period.

BI-MONTHLY MEETING W/ JED FISHER, WEED/ PARKS/ MAINTENANCE

[9:04:19 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Weed & Parks Director Jed Fisher, Clerk Kile

Fisher updated the Commissioners on building maintenance. He then reported the switch on the generator at the Justice Center has burnt out completely and needs replaced since it may possibly affect 911 and the I.T. Department if the power was to go down. It was also clarified the generator is fine and it was only the switch that would need replaced.

Fisher went on to report continual complaints about fumes coming into the Earl Bennett building, the Justice Center and the Center Courthouse that are exhaust fumes from delivery trucks. He then explained as the vehicles are idling the exhaust fumes goes into the air intake system. Numerous tests and meetings were conducted according to Fisher with no conclusion and more tests are being conducted at the state level at individual department's expense. Fisher then suggested the delivery trucks park a specific distance from the buildings to eliminate this issue. Commissioner Hall suggested Fisher send out letters to the delivery companies specifying the parking and delivery location. Commissioner Brenneman suggested checking into raising the air intake off the ground. There was further discussion in this regard.

Fisher inquired if he should be working with Joe Russell and Mark Peck in regards to maintenance and janitorial work at the new 911Center. Commissioner Brenneman explained the 911 Center should be dealt with on a contract basis.

Commissioner Hall said you will go before the board and due to the security issue they most likely will want someone internal providing custodial and maintenance service. There was continued discussion regarding which department would provide the funding for this service and who would supervise this position.

Fisher then discussed the heating issues and custodial expenses at the Animal Shelter, the long term plan regarding the parking lot at the east end of the Earl Bennett Building and possibly replacing windows in the Courthouse for efficiency purposes.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ANNEXATION TO SMITH VALLEY FIRE DISTRICT/ CANYON CREEK RANCH

[9:36:05 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Clerk Kile

Commissioner Brenneman made a **motion** to approve Resolution of Intent 2182 and authorized the chairman to sign the Notice of Public Hearing. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 2182

WHEREAS, Section 7-33-2125, M.C.A., allows for annexation of adjacent property into a fire district upon petition by at least 50% of the owners in an area to be annexed and approval by the Trustees of the Fire District;

WHEREAS, a petition was received from 100 % of the owners of property that is currently in the Flathead County Fire Service Area, to be annexed into the Smith Valley Rural Fire District and that petition was approved by the Board of Trustees of the Smith Valley Rural Fire District;

WHEREAS, the property to be annexed is described as Lots 1 through 11 of Canyon Creek Ranch Subdivision located in the Section 21, Township 27 North, Range 23 West, P.M.M., Flathead County, Montana, and to alter the boundaries of the Flathead County Fire Service Area., and as shown on Exhibit A hereto and is currently located in the Flathead County Fire Service Area;

WHEREAS, Section 7-33-2125, M.C.A., requires that the Board of Commissioners hold a hearing on the petition to annex; and

WHEREAS, Section 7-33-2401, M.C.A., allows the Board of Commissioners to alter the boundaries of the Flathead County Fire Service Area upon petition and after passage of a resolution of intent and conduct of a public hearing.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that it intends to alter the boundaries of the Flathead County Fire Service Area by transferring the property described as Lots 1 through 11 of Canyon Creek Ranch Subdivision located in the Section 21, Township 27 North, Range 23 West, P.M.M., Flathead County, Montana, into the Smith Valley Rural Fire District.

THURSDAY, DECEMBER 18, 2008
(Continued)

BE IT FURTHER RESOLVED that the Board of Commissioners will hold a public hearing on its intent to alter said boundaries and on the petition to annex the property into the Somers Rural Fire District on the **5th day of January 2009, at 9:30 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will accept written protests from property owners of the property described above and will receive general protests and comments relating to the alteration of the boundaries of the Flathead County Fire Service Area and the Smith Valley Rural Fire District.

BE IT FURTHER RESOLVED that notice of the passage of this resolution of intent and of the scheduling of the public hearing shall be published pursuant to the terms of Section 7-1-2121, M.C.A.

Dated this 18th day of December, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

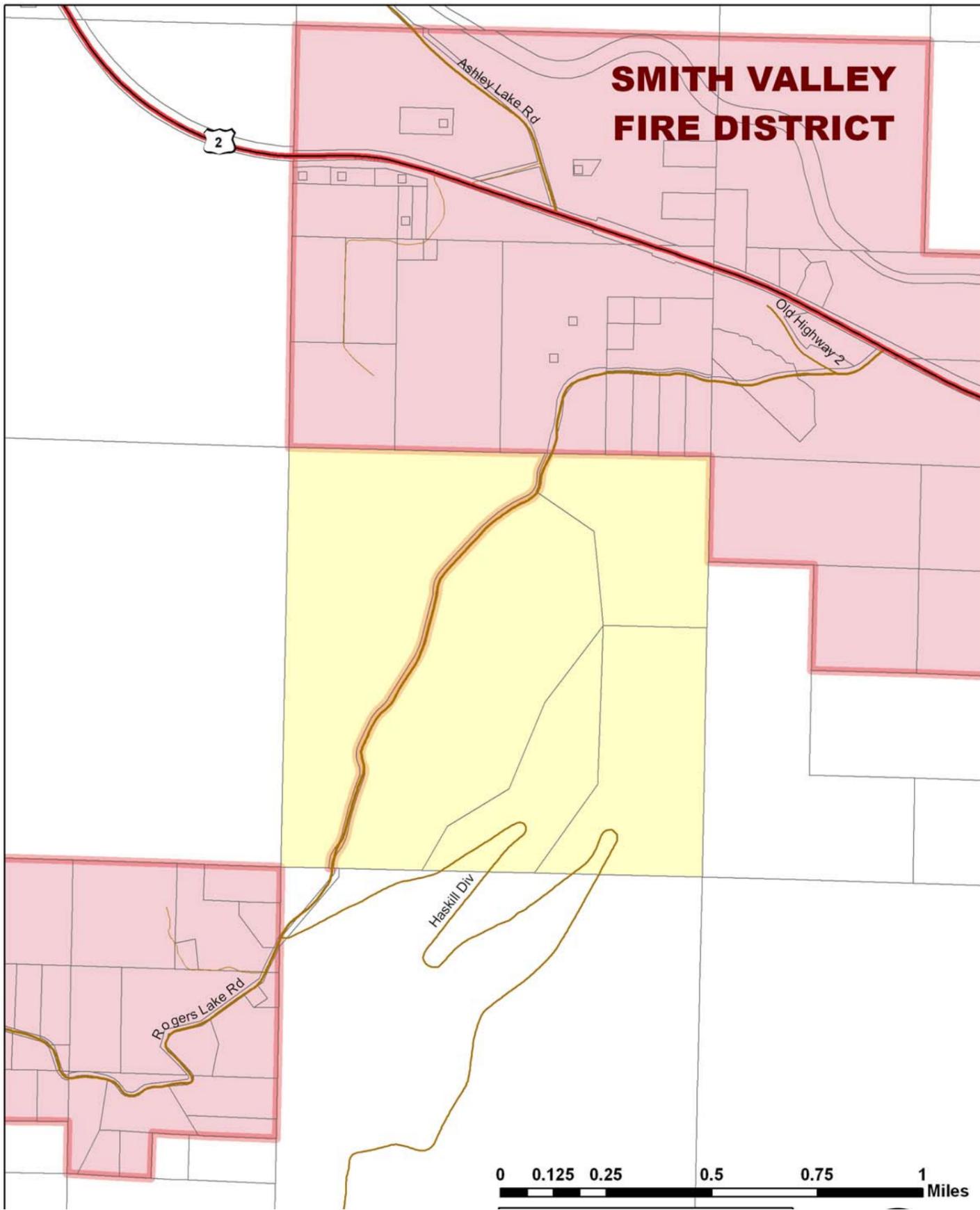
By/s/Gary D. Hall
Gary D. Hall, Chairman

By/s/Joseph D. Brenneman
Joseph D. Brenneman, Member

By/s/Dale W. Lauman
Dale W. Lauman, Member

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy



THURSDAY, DECEMBER 18, 2008
(Continued)

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Section 7-33-2125(1)(b), M.C.A., that it will hold a public hearing to consider a petition to annex territory into the Smith Valley Rural Fire District, said territory being described as Lots 1 through 11 of Canyon Creek Ranch Subdivision located in the Section 21, Township 27 North, Range 23 West, P.M.M., Flathead County, Montana, and to alter the boundaries of the Flathead County Fire Service Area.

The Board of Commissioners has received a petition in writing by the owners of 100% of the land of the area to be annexed asking that such area be annexed into the Smith Valley Fire District and has passed a Resolution of Intent to alter the boundaries of the Flathead County Fire Service Area by transferring the property described above into the Smith Valley Rural Fire District.

The public hearing will be held on the 5th day of **January, 2009**, at **9:30 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed annexation, and will consider whether a protest petition signed by a majority of the landowners of the area proposed for annexation, which would prevent the annexation, is presented at the hearing.

DATED this 18th day of December, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Gary D. Hall
Gary D. Hall, Chairman

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

Publish on December 23 and December 30, 2008.

CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: CREATION OF FISH HATCHERY ZONING DISTRICT

[9:37:59 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Clerk Kile

Commissioner Lauman made a **motion** to adopt final Resolution 2169A to establish the Fish Hatchery Zoning District. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 2169A

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 30th day of October, 2008, concerning a proposal to create a zoning district to be known as the Fish Hatchery Zoning District;

WHEREAS, the Board of Commissioners did hear public comment on the proposed creation of the Fish Hatchery Zoning District at that hearing;

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed creation of the zoning district;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 2169) on October 30, 2008, to create the Fish Hatchery Zoning District; and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on November 4 and November 11, 2008, and the Board of Commissioners did not receive written protests from forty percent (40%) of the freeholders within the proposed District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby creates the Fish Hatchery Zoning District as an R-1 (Suburban Residential) District.

THURSDAY, DECEMBER 18, 2008
(Continued)

BE IT FURTHER RESOLVED the Flathead County Zoning Regulations shall apply in the Old Highway 93 Zoning District and the zoning designation on the property within the Old Highway 93 Zoning District shall be R-2 (One Family Limited Residential), as defined in the Flathead County Zoning Regulations, on file in the Flathead County Clerk and Recorder's Office and in the Flathead County Planning and Zoning Office.

DATED this 18th day of December, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Gary D. Hall
Gary D. Hall, Chairman

By/s/Joseph D. Brenneman
Joseph D. Brenneman, Member

By/s/Dale W. Lauman
Dale W. Lauman, Member

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy Clerk

CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: FETVEIT, ET AL, ZONE CHANGE/ HWY 93 NORTH ZONING DISTRICT

[9:39:50 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Deputy County Attorney Jonathan Smith, Clerk Kile

Commissioner Brenneman made a **motion** to approve final resolution 837BR. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 837 BR

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 2nd day of October, 2008, concerning a proposal to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural);

WHEREAS, the Board of Commissioners did hear public comment on the proposed zoning change at that hearing;

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Highway 93 North Zoning District;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 837 BQ, dated October 2, 2008) to change the zoning designation of the property described on Exhibit A, in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural); and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on October 23 and October 30, 2008, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders in the Highway 93 North Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Highway 93 North Zoning District to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural), that property being described on Exhibit A.

DATED this 18th day of December, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Gary D. Hall
Gary D. Hall, Chairman

By/s/Dale W. Lauman
Dale W. Lauman, Member

By/s/Joseph D. Brenneman
Joseph D. Brenneman, Member

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

THURSDAY, DECEMBER 18, 2008
(Continued)

Exhibit "A"

The properties can legally be described as follows:

Fetveit: A tract of land located in the North Half of the Northwest Quarter of Section 12, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana. (Shown as Tract 1 of Certificate of Survey No. 12697)

Bauer: A tract of land located in the North Half of the Northwest Quarter of Section 12, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana. (Shown as Tract 2 on Certificate of Survey No. 12697)

PRELIMINARY PLAT: LOGAN STAR 1

[9:47:41 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Planner Dianna Broadie, Jane Eby, John K. Meek, Clerk Kile

Broadie entered into record FSR 08-15; an application submitted by John and Robert Meek with technical assistance from Jane Eby for preliminary plat approval of Logan Star 1. This 4 lot residential subdivision is located west of Tally Lake near the intersections of Logan Creek Road and Sanko Creek Road on unzoned property. The proposed lots range in size from 3.469 to 78.889 acres from a 160.230 acre tract. Broadie noted for the record the variances requested by the applicant are supported by planning staff.

Commissioner Brenneman made a **motion** to adopt Findings of Fact. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

Eby stated that Planner Harris reviewed the original conditions and agreed to waive all the owners' requirements on the proposed subdivisions new conditions. Eby also stated it was agreed the fire requirements would also be waived. There were originally 7 conditions and now there are 18 conditions. Eby commented that she only has issues with 4 of the conditions.

The first condition discussed was #4 and Eby asked that the reasonable fire suppression condition be waived. Eby stated that Planning & Zoning Director Jeff Harris specifically stated to Eby that he would waive the condition. Commissioner Hall inquired about which fire district serviced that area. John Meek said as far as the fire district and who responds generally it is between the Tally Lake District and the State. Meek noted the state is there more often than not and that they draw water off of his property.

Commissioner Brenneman made a **motion** to remove condition 4. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

Eby then asked that condition 9(b) read all future service utilities shall be placed under ground. There was brief discussion regarding this matter and agreement was made that it would read as Eby requested.

Eby inquired about condition 14 which discusses the width of the bike path. This condition was not one of the original conditions and Eby asked that condition 14 be removed. There was brief discussion regarding this condition and whether or not it was necessary on Star Meadows Road.

Commissioner Lauman made a **motion** to remove condition 14. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

Condition 16 was discussed relative to lot sizes and possible further division of them. Eby asked that there not be limitations to possible division on the 3 larger of the 4 lots in this subdivision. Meek then discussed with the commission that his intention was to allow the 3 larger lots to be split once by the new owners.

Commissioner Brenneman stated he doesn't feel they have the authority to insert wording regarding further subdividing and the commission agreed it would be best to remove the condition.

There was brief discussion regarding condition 18. The commission did not feel they had the authority to require a stop sign be installed on a forest service road. It was agreed that condition 18 would also be removed.

Commissioner Brenneman made a **motion** to approve preliminary plat of Logan Star 1 with amended conditions. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

APPOINTMENT OF SUBDIVISION REVIEW COMMITTEE

[10:22:35 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Assistant Planning & Zoning Director B J Grieve, Deputy County Attorney Peter Steele, Public Works Director Dave Prunty, Ardis Larsen, Eric Mulcahy, Tom Sands, Marc Leichti, Clerk Kile

Chairman Hall proposed Jane Eby sit on the Subdivision Review Committee.

Commissioner Brenneman proposed Eric Mulcahy and Dave DeGrandpre sit on the Subdivision Review Committee.

Commissioner Lauman proposed Marc Leichti sit on the Subdivision Review Committee.

THURSDAY, DECEMBER 18, 2008
(Continued)

Commissioner Lauman made a **motion** to appoint Jane Eby, Eric Mulcahy, Dave DeGrandpre and Marc Leichti to the Subdivision Review Committee. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

Commissioner Brenneman noted that he anticipated the group would start meeting after the first of the year. He then stated that it would be his hope that this group will look at the Flathead County Subdivision Regulations with the Planning Staff and if the committee agrees on changes that the changes would be brought before the commission for approval. If the committee and staff don't agree they would each then come before the commission and make their case to them and they would make the final decision.

AWARD BID: LEGAL ADVERTISING 2009

[10:27:01 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Lauman made a **motion** to award the legal advertising bid for 2009 to The Daily Inter Lake and authorized the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

MEETING W/ KEVIN DETTMERING RE: PARKER HILL ROAD

[10:32:41 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, Public Works Director Dave Prunty, Operations Manager Road & Bridge Department Guy Foy, Marc Leichti, Kevin Dettmering, Heidi Dettmering, Clerk Kile

Dettmering's question to the commission was why are we not sticking to the original plan discussed with the Road Department.

Prunty explained he met with Mr. Broussard to understand the problem. The properties are located at the top of a ridge and how the lay of the land was is hard to determine. One of the things he noticed is draining water from one drainage to another drainage and stated it is against the law if water is placed in a drainage that it did not originally go to. Prunty explained that when they looked there appears to be a ridge where Mr. Broussard's driveway comes down. Prunty also explained there appeared to be a pre-existing condition where the road level comes across, and if that was where the culvert was installed there would be water going to the north and that's not originally where it went.

Kevin Dettmering asked if the property was unimproved when he first viewed it and if all the water that would have naturally gone to the north had been stopped.

Prunty stated the situation stands as Mr. Broussard will be removing the material on the roadway from grade to 18 inches deep where his driveway comes down the road and he will be sloping his approach to the track that is there 3 percent away from a minimum of 5 feet. He will then continue up on to his property where there is a culvert installed that has been sand bagged. Mr. Broussard had agreed to not route into the flat spot at the top of the hill where the bog is in the roadway. Mr. Broussard also agreed that the approach will be cut away so it doesn't come onto the roadway. Prunty stated they allowed Mr. Broussard until July 31, 2009 to get his approach to a standard that has been discussed and agreed upon.

Kevin Dettmering asked if the road would be coming in at 90 degrees and lowered to the original grade. There was a brief discussion regarding remembering how the road was back in 1994 when the property was purchased.

Heidi Dettmering commented that this is a public road. Heidi also stated if the road was restored to its original grade it would benefit everyone.

Foy noted he spoke with Wayne Smith who states the road has been drastically changed. He also stated he could not say exactly how much higher and or lower the roadway is. The standing water level is larger now but he was able to drive through it and it drained both ways. Foy stated since it did drain there must be some sort of elevation in the middle point of the puddle. Dettmering said the original intent of the commission was to solve the problem of water on the road. He also mentioned that this water problem has gotten drastically worse since Mr. Broussard placed the culvert.

Marc Leichti commented that there had been heavy equipment on the road site and feels putting in a culvert would solve the problem.

Prunty said with the installation of the culvert that the best they can tell you can see where a ridge was and with the installation of a culvert it will have to daylight out with it being flat on top of the ridge. When the water comes down Mr. Broussard's driveway it will go to the north side but will continue to pond up on the road.

Kevin Dettmering stated that they are just asking to make the road better and if he only lowers it a foot from where it is now it is still a foot and a half higher than the low spot that means a foot and a half of water can accumulate so if he would lower it to the low spot no water could accumulate.

Prunty said if water gets drained to a different drainage than it is originally drained to it is possible you will get sued.

THURSDAY, DECEMBER 18, 2008
(Continued)

Chairman Hall said this seems like a civil case, that they have tried to fix it, but it may end up being finalized in court. Commissioner Hall also stated that if they had an original topography they could see the original layout of the land.

CONSIDERATION OF LAKESHORE PERMIT: REDFIELD

[11:03:00 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Planner George Smith, Clerk Kile

Smith entered into record FLP 08 -110B; an application to construct a boat shelter 24 feet long by 14 feet wide that will cover a 24 foot by 12 foot wide boat slip constructed under permit FLP 08-110A.

Commissioner Lauman made a **motion** to approve the lakeshore permit and authorized the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

CONSIDERATION OF LAKESHORE PERMIT: WRIGHT

[11:07:25 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Planner George Smith, Clerk Kile

Smith entered into record FLP 08-108; an application to construct a boat shelter, including an integral cradle boat lift on an existing new construction dock by previous permit FLP 08-104.

Commissioner Brenneman made a **motion** to approve the lakeshore permit and authorized the chairman to sign. Commissioner **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

8:00 a.m. Commissioner Lauman: Meeting @ District Court re: Financing for new Judge
12:00 p.m. Commissioner Brenneman: Rotary @ Hilton Garden Inn
2:00 p.m. Commissioner Brenneman: Health Board meeting @ Earl Bennett Bldg.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 19, 2008.

FRIDAY, DECEMBER 19, 2008

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Brenneman and Lauman, and Clerk Robinson were present.

NO MEETINGS SCHEDULED

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 22, 2008.
