

MONDAY, MARCH 1, 2004

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

FINAL PLAT: ASHLEY HILLS

Present at the March 1, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioner Watne, Planning and Zoning Director Forrest Sanderson, Carl Glimm, Erica Wirtala from Sands Surveying, and Clerk Eisenzimer.

Sanderson reviewed the final plat for Ashley Hills (formerly Ashley Hills Estates, Phase 1 which is an application from Sands Surveying for approval of a sixteen lot residential subdivision off Highway 2 in Section 15, Township 28 North, Range 22 West. Preliminary plat was approved on June 3, 2002 subject to 13 conditions. All conditions have been met or otherwise addressed by the applicant. Staff recommends approval of the final plat.

Commissioner Hall made a motion to approve Subdivison Improvement Agreement for \$88,950 for the completion of improvements. Chairman Gipe seconded the motion. Aye-Hall and Gipe. Motion carried by quorum.

Commissioner Hall made a **motion** to approve Final Plat for Ashley Hills Subdivision. Chairman Gipe **seconded** the motion. **Aye** – Hall and Gipe. Motion carried by quorum.

FINAL PLAT: OSPREY NEST

Present at the March 1, 2004 9:15 A.M. Meeting were Chairman Gipe, Commissioner Watne, Planning and Zoning Director Forrest Sanderson, Schwarz Engineering, and Clerk Eisenzimer.

Sanderson reviewed the final plat for Osprey Nest Subdivision which is an application from Schwarz Engineering for approval of a five lot residential subdivision off Lincoln Lane in Section 13, Township 27 North, Range 21 West. Preliminary plat was approved on December 18, 2002 subject to 16 conditions. All conditions have been met or otherwise addressed by the applicant. Staff recommends approval of the final plat.

Commissioner Hall made a motion to approve Subdivision Improvement Agreement for \$3500 to complete required improvements to Osprey Nest Subdivision. Chairman Gipe seconded the motion. Aye- Hall and Gipe. Motion carried by quorum.

Commissioner Hall made a **motion** to approve Final Plat for Osprey Nest Subdivision. Chairman Gipe **seconded** the motion. **Aye** – Hall and Gipe. Motion carried by quorum.

MEETING W/JOHN MUELLER RE: STILLWATER RIVER EROSION

Present at the March 1, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, John Mueller and Clerk Eisenzimer.

Discussion was held relative to erosion of land by Stillwater River; Chairman Gipe explained to Mr. Mueller that he would bring Army Corps of Engineers to tour erosion site.

TAX REFUND: DYON

THIS MEETING WAS CANCELLED

MONTHLY MEETING w/RAEANN CAMPBELL, HUMAN RESOURCES

Present at the March 1, 2004 10:00 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Human Resource Director Raeann Campbell, and Clerk Eisenzimer.

General discussion was held relative to mandatory drug and alcohol testing training; February incidents; claims; revision of policy and procedure manual; interview process for administrative officer.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: BURTON GREGOIRE & MORRIS ZONE CHANGE/BIGFORK ZONING DISTRICT

Present at the March 1, 2004 10:15 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Donald Burton, Bernard Gregoire, Dan Morris and Arnold Morris to change the zoning designation in a portion of the Bigfork Area Zoning District from B-3 (Community Business) to B-2 (General Business).

The boundaries of the area proposed to be amended from B-3 to B-2 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from providing for a business district for the development of congregated community shopping areas, to serve the range of a number of neighborhoods of a major segment of the Planning Area, as a business center and not a strip development, to providing a business district for those retail sales and service functions and businesses whose operations are typically characterized by outdoor display, storage and/or sale of

**MONDAY, MARCH 1, 2004
(CONTINUED)**

merchandise, by major repair of motor vehicles, by outdoor commercial amusement and recreational activities and by businesses serving the general needs of the tourist and traveler.

The regulations defining the B-3 and B-2 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

The public hearing will be held on the 17th of March, 2004, at 10:00 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 change in the regulations for the described portion of the Bigfork Area Zoning District.

DATED this 1st day of March, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/Howard W. Gipe
Howard W. Gipe, Chairman

ATTEST:
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer
Deputy

Publish on March 4, and March 11, 2004.

**Exhibit A
DONALD BURTON, BERNARD GREGOIRE, DAN MORRIS AND ARNOLD MORRIS
ZONE CHANGE FROM B-3 TO B-2/Bigfork Zoning District
STAFF REPORT #FZC-03-46**

The property is a portion of the Bigfork Zoning District and is bounded by Montana Highway 35 on the west and is just south of Ice Box Canyon. The property contains approximately 7.17 acres. The property may be described as Assessor's tracts 3AAA, 3AAAC, 3AAAD and Lot 1 of Subdivision #218, in Section 25, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: OPEN CUT MINING ACT TEXT AMENDMENT/FLATHEAD COUNTY ZONING REGULATIONS

Present at the March 1, 2004 10:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a change to the text of the Flathead County Zoning Regulations proposed by the Flathead County Planning and Zoning Office.

The proposed amendment would amend Sections 4.10.010 and 4.10.040 of the Flathead County Zoning Regulations to recognize that the Montana Open Cut Mining Act, due to a statutory change, is now administered by the Montana Department of Environmental Quality rather than the Montana Department of Natural Resources.

The Flathead County Zoning Regulations are on file for public inspection at the Office of the Clerk and Recorder in Permanent File number 93270 13500. The proposed amendment is on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana and the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana.

The public hearing will be held on the 17th day of March, 2004, at 10:15 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 change to the text of the Flathead County Zoning Regulations.

DATED this 1st day of March, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Howard W. Gipe
Howard W. Gipe, Chairman

**MONDAY, MARCH 1, 2004
(CONTINUED)**

ATTEST:
Paula Robinson, Clerk

By: /s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

Publish on March 4 and March 11, 2004.

AUTHORIZATION TO PUBLISH CALL FOR BIDS: GRAVEL PUP TRAILERS/ ROAD DEPT.

Present at the March 1, 2004 10:15 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to authorize the publication of the Call for Bids for the Road Department and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

**CALL FOR BIDS
ROAD DEPARTMENT**

Notice is hereby given that the Board of County Commissioners of Flathead County, Montana, will receive bids on **two (2) new gravel pup trailers**.

The specifications for said gravel pup trailers may be obtained at the **County Clerk and Records Office, 800 South Main, Kalispell, MT 59901**.

Each bidder must deposit with his bid, a bid security in the amount of ten percent (10%) of his bid to secure the bidder's express covenant that if the bidder is awarded the contract, the bidder will, within ten (10) days, enter into a formal contract for the purchase and sale of said unit. Bid security shall be payable to Flathead County and shall be in the form of lawful money of the United States; a cashier's check, certified check, bank money order or bank draft issued by a Montana bank, or a bid bond executed by a surety corporation authorized to do business in Montana.

Each bidder shall include with the bid, the form of contract to be signed. The provisions of the contract will be considered in determining the bid which is in the best interest of the County.

All sealed bids, plainly marked as such, must be in the hands of the County **Clerk and Recorder, 800 South Main, Kalispell, MT 59901**, on or before **5:00 p.m. on March 19, 2004**. Bids will be opened and read at **10:15 a.m. on March 24, 2004** in the **Commissioners' Office in the West Annex of the Courthouse**.

The Board of County Commissioners reserves the right to reject any and all bids and to accept the bid deemed to be in the best interest of Flathead County.

The award of a bid will be made solely by the issuance of a letter of award to the successful bidder by the Office of the Flathead County Clerk and Recorder.

Dated this 1st day of March, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

/s/Howard W. Gipe
Howard W. Gipe, Chairman

ATTEST:
Paula Robinson, Clerk and Recorder

/s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

PLEASE PUBLISH :

March 4th, & March 11th, 2004.

COMMENT ON TEN COMMANDMENTS MONUMENT

Present at the March 1, 2004 10:15 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Richard Nelson presented comment on Ten Commandments sculptures present on Supreme Court building in Washington DC.

**MONDAY, MARCH 1, 2004
(CONTINUED)**

MEETING W/BAILEY LAKE PROPERTY OWNERS RE: BAILEY DRIVE

Present at the March 1, 2004 10:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Road Superintendent Charlie Johnson, Michael Yelinek, Thomas Knutson, Diane D. Johnson, Joan M. Schumacher and Clerk Eisenzimer.

Discussion was held relative to the plowing of Bailey Drive and widening and resurfacing the road to accommodate traffic and snow.

MEETING W/CHARLIE JOHNSON, ROAD DEPT.

Present at the March 1, 2004 11:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Road Superintendent Charlie Johnson, and Clerk Eisenzimer.

Discussion was held relative to Bigfork Bridge re-deck and painting; air-quality equipment; weight limits on outlying county roads; Spoon Lake and North Fork snow plowing; cutting shrubs and trees in Many Lakes area; Serena Streeter's issues concerning road construction, placement of stop signs in subdivisions.

Johnson began with the bridge in Bigfork, probably in two weeks we're going to be down there re-decking that bridge, so you guys are probably going to hear that we've got the bridge closed for a few days. While we're re-decking it, we're going to go and weld some H-beams out from underneath there to support that walkway that's been kind of precariously placed there and then while we're there we're also going to paint it silver. We tried to work out a color with them, so it's getting painted silver so I just wanted you guys to be aware of that. This program for equipment for the air quality the PM10 Areas is back. We're going to be budgeting \$40,000 for two sweepers and two flush trucks if they let us have them then we'll have the money in our budget, it's pretty good buy, I think we have to come up with like 16% of the money or something like that. We're getting to the point where when I first came here, we only swept the stuff that was in the PM10 areas, now we're sweeping everything in the county so additional sweepers are a help. We've already discussed the weight limits there. We're out right now and I kind of expected to maybe get some in there but we're pushing the snow way back off the right-of-way. We're up the North Fork today doing the same thing, that's that road is starting to break up so we're winging it off, trying to get it off there. This tree cutting, we're out in Many Lakes, we've had no problems in Many Lakes. The Homeowners Association after the fires this summer got together and said yes, knock yourself out and we're taking out some big trees out there. Blaine View, Van Sant we've got several complaints but we're just taking what we need out there. I've got a couple people, one guy said we vandalized his property by cutting the trees down; I'll have to get with Peter over here at the County Attorney's office so Peter can write him a letter.

Commissioner Hall asking, do you find your right of way boundaries before you cut? Johnson answered yes, I'm not surveying them but you know we go back and look at the property corners. If it's in doubt we leave it, you know and I mean, we don't take, I mean if the fence is right here on the property line and there's a tree within twelve or fourteen inches of the fence we leave it, what we're trying to do it is get it where we can get the wing out there and get the snow back away from the road. This is a must, you know and in the past we made the mistake out here on Blaine View two or three years ago, we went out and met with the people and said hey, we'd like to do this, you know, take these trees out well they stood there and told us what branches we could cut. Well now we're back.

Commissioner Watne asking what happened with that attorney out on Foothills Road. Johnson answered, they settled that out of court and we can only take what we have to, to provide passage through there, which I think was a bad deal.

Commissioner Watne agreeing and said, well I think so too because his fence was even on our right of way.

Johnson continued with I wasn't thrilled about that. I talked to Norm Root about that fence up there, they wanted to put it back out on the edge of the asphalt, I said no, you're going to have to go back to the edge of the right-of-way, I think we've worked that out. Norm Root is on Lakeshore Heights. Johnson explained involvement with Root. They had a fence that set just about this far off the edge of the asphalt and the Homeowner's Association wanted to rebuild the fence and put up a nice fence. They wanted to put it right back in the same location and our policy in the county says you can't have any signs or fences on the right-of-way. Well, then they tried to work with some of the homeowners and I think all but two or three of them said yeah, go ahead and we'll put it onto our property, 6 inches inside off the county right-of-way, two or three others said no, so what we're going to do is we've kind of hammered out an agreement. I have Serena Streeter taken care of. I talked to Ed at Schellinger's he said he couldn't do anything about it, the weather was bad and they'd just have to live with it. I talked to Mark Seal, the project manager for that deal up there and Mark said they'd take care of it. The only other question I got is that we're getting calls in some of the subdivisions that we maintain. I think I've got two or three; they want us to start evaluating maybe putting stop signs into some of these subdivisions. We're real reluctant to but there are a couple of them that we think that like Country Estates out there, you've got pretty much one main drag that runs through there. My question is do you guys want to know if we go to put up a stop sign, do you want me to bring it before you guys or do you want us to just put it up? The Board of Commissioners agreed to have Road Department just put up the signs with out checking with them first.

FINAL PLAT: COLUMBIA VIEW INDUSTRIAL PARK

Present at the March 1, 2004 11:30 A.M. Meeting were Chairman Gipe, Commissioner Watne, Planner Tim Beck, Dawn Marquardt from Marquardt & Marquardt Surveying, and Clerk Eisenzimer.

Beck reviewed the final plat for Columbia View Industrial Park which is an application from Mitch Moylan for approval of a five lot industrial subdivision located off of Second Avenue West and Fourth Street West North, just north of Columbia Falls.. The subject property is 11.65 acres in size and is zoned Columbia Falls CI-1 (Light Industrial). Preliminary plat was waived on July 16, 2003 subject to nine conditions. All conditions have been met or otherwise addressed by the applicant. Staff recommends approval of the final plat.

Commissioner Watne made a **motion** to adopt Staff Report #FWP-04-06 as Findings of Fact. Chairman Gipe **seconded** the motion. **Aye** – Watne and Gipe. Motion carried by quorum.

**MONDAY, MARCH 1, 2004
(CONTINUED)**

Commissioner Watne made a **motion** to approve Final Plat for Columbia View Industrial Park. Chairman Gipe **seconded** the motion. **Aye** – Watne and Gipe. Motion carried by quorum.

MEETING W/LISA KRUEGER/TALLY LAKE RANGER DIST.

Present at the March 1, 2004 11:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Lisa Krueger, and Clerk Eisenzimer.

Discussion was held relative to introducing herself to the Board of Commissioners after becoming Ranger for the Tally Lake Ranger District.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on March 2, 2004.

TUESDAY, MARCH 2, 2004

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

MONTHLY MEETING W/DONNA MADDUX, SUPT. OF SCHOOLS

THIS MEETING WAS CANCELLED

MONTHLY MEETING W/NORM CALVERT, COMPUTER SERVICES

THIS MEETING WAS CANCELLED

PRELIMINARY PLAT: HILLS ACRES

Present at the March 2, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Planning and Zoning Director Forrest Sanderson, Sam Cordi, and Clerk Eisenzimer.

Sanderson reviewed the preliminary plat for Hills Acres Subdivision filed by Eugene & Teri Hill and Sam Cordi. Hills Acres Subdivision creates a five lot residential subdivision on 20.559 acres. The property is located east of the intersection of U.S. Highway 93 South and East Blanchard Lake Road, approximately 1 mile south of the City of Whitefish. Staff recommends approval of the Preliminary Plat.

Commissioner Watne made a **motion** to adopt Staff Report #FSR-04-05as Findings of Fact. Chairman Gipe **seconded** the motion. **Aye** – Watne and Gipe. Motion carried by quorum.

Commissioner Watne made a **motion** to approve the Preliminary Plat for Hills Acres Subdivision subject to 9 conditions. Chairman Gipe **seconded** the motion. **Aye** – Watne and Gipe. Motion carried by quorum.

TRANSFER OF FUNDS FOR BUSES FOR EAGLE TRANSIT

Present at the March 2, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Watne made a motion to approve a \$35,000 transfer for Eagle Transit to another of their accounts. Chairman Gipe **seconded** the motion. **Aye-** Gipe and Watne. Motion carried by quorum

PRELIMINARY PLAT: BLUE CRESCENT ESTATES

Present at the March 2, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Planning and Zoning Director Forrest Sanderson and Clerk Eisenzimer.

Sanderson reviewed the preliminary plat for Blue Crescent Estates Subdivision filed by Wesley Turner and Sands Surveying. Blue Crescent Estates creates a five lot residential subdivision on 6.8 acres. The property is located directly west of Kalispell on Wettington Drive in the Smith Valley area. Staff recommends approval of the Preliminary Plat.

Commissioner Watne made a **motion** to adopt Staff Report #FSR-04-07 as Findings of Fact. Commissioner Watne **seconded** the motion. **Aye** – Watne, Hall and Gipe. Motion carried unanimously.

Commissioner Watne made a **motion** to approve the Preliminary Plat for Blue Crescent Estates subject to 8 plus one condition providing the developer shall install one stop sign at the intersection of Buckaneer Lane and Dolphin Drive, the sign shall be installed in accordance with section 3.918 of the Flathead County Subdivision Regulations totaling 9 conditions. Commissioner Hall **seconded** the motion. **Aye** – Watne, Hall and Gipe. Motion carried unanimously.

MEETING W/BERNIE OLSON, CENTRAL SCHOOL MUSEUM

Present at the March 2, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, John Hinchey, Bernie Olson, and Clerk Eisenzimer.

Discussion was held relative to Mr. Olson presented a letter explaining mission of Central School Museum with regards to mill levy resolution request.

**TUESDAY, MARCH 2, 2004
(CONTINUED)**

CONSIDERATION OF ADOPTION RESOLUTION: SET FINAL PLAT FEES

Present at the March 2, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Human Resource Director Raeann Campbell, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to adopt Resolution 1693 to set Final Plat Fees. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

RESOLUTION NO. 1693

WHEREAS, § 76-3-611(2), MCA, provides that the governing body may require that final subdivision plats be reviewed for errors and omissions by an examining land surveyor before recording with the county clerk and recorder;

WHEREAS, § 76-3-602, MCA, provides that the governing body may establish reasonable fees to be paid by the subdivider to defray the expense of reviewing subdivision plats;

WHEREAS, the Flathead County Clerk and Recorder has advised the Board that a fee of \$35.00 per subdivision plats would defray the expense of review by the examining land surveyor;

WHEREAS, the Board agrees that a fee of \$35.00 represents the reasonable cost to defray the cost of the review of a subdivision plat by the examining land surveyor;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Flathead County, pursuant to § 76-3-611(2) and § 76-3-602, MCA, that a fee of \$35.00 per subdivision plat shall be collected by the Flathead County Clerk and Recorder to defray the cost for review of the subdivision plat. The collected fees shall be deposited into the General Fund.

Dated this 2nd day of March, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/Howard W. Gipe
Howard W. Gipe, Chairman

By /s/Robert W. Watne
Robert W. Watne, Member

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

ATTEST:
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

CONSIDERATION OF ADOPTION RESOLUTION: SETTING VOTE ON STUDY COMMISSION & 1 MILL LEVY TO FUND

Present at the March 2, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Human Resource Director Raeann Campbell, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to adopt Resolution 1694 setting vote on study commission and 1 mill levy to fund. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

RESOLUTION NO. 1694

WHEREAS, Article XI, Section 9(2), Constitution of Montana, requires that each local government hold an election to determine whether that local government will undertake a review procedure once every ten years;

WHEREAS, the Legislature enacted Section 7-3-173, M.C.A., requiring an election on the question of conducting a local government review and establishing a study commission to be held ten (10) years after the last such election;

WHEREAS, Flathead County voters last voted on the question of conducting a local government review and establishing a study commission at the primary election held on June 7, 1994 and, therefore, Flathead County must submit a ballot on the question to the voters in the upcoming primary to be held on June 8, 2004;

WHEREAS, Section 7-3-184, M.C.A., states that "each local government under study may appropriate an amount necessary to fund the study; and

**TUESDAY, MARCH 2, 2004
(CONTINUED)**

WHEREAS, the Board of Commissioners has determined that such a study commission, if approved, should be composed of nine members (Section 7-3-177(1), M.C.A.).

NOW, THEREFORE, BE IT RESOLVED that the following ballot issue shall be on the June 8, 2004, primary election ballot for all voters of Flathead County:

Vote for one:

- **FOR** the review of the government of Flathead County, Montana, and the establishment of a local government study commission consisting of nine members funded by a levy, for each year the study commission is in existence, of up to 1 mill in excess of all other mill levies authorized by law for the support of the study commission and its examination the government of Flathead County, Montana, and recommendations thereon.
- **AGAINST** the review of the government of Flathead County, Montana, and the establishment of a study commission consisting of nine members funded by a levy, for each year the study commission is in existence, of up to 1 mill in excess of all other mill levies authorized by law for the support of the study commission and its examination the government of Flathead County, Montana, and recommendations thereon.

The impact of levying of one additional mill on a home valued at \$100,000, under the 2004 mill value, would be approximately \$3.30 in additional property taxes.

BE IT FURTHER RESOLVED, pursuant to Section 7-3-175(2), M.C.A., that the question of conducting a local government review and establishing a study commission requires an affirmative vote of a majority of those voting on the question of passage.

DATED this 2nd day of March, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Howard W. Gipe
Howard W. Gipe, Chairman

ATTEST:
Paula Robinson, Clerk

By/s/Robert W. Watne
Robert W. Watne, Member

By /s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

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

10:00 a.m. Commissioners are to conduct on-site viewing of Potoczny Field w/Jed Fisher
1:15 p.m. 911 meeting at Justice Center

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on March 3, 2004.

WEDNESDAY, MARCH 3, 2004

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

7:-00 a.m. Commissioner Hall is to attend Business Network International meeting at West Coast Hotel
9:00 a.m. Commissioner Hall is to attend GNESA Annual meeting at Glacier National Park Community Room
11:00 a.m. County Attorney meeting at County Atty's Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on March 4, 2004.

THURSDAY, MARCH 4, 2004

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

8:30 a.m. Commissioner Hall is to attend AOA TAB meeting at Lutheran Home Cottage

MEETING W/RITA WINDOM, LINCOLN CO. COMMISSIONER, RE:HIGHWAY 2

Present at the March 4, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Lincoln County Commissioner Rita Windom, and Clerk Eisenzimer.

**THURSDAY, MARCH 4, 2004
(CONTINUED)**

Discussion was held relative to hazardous and unacceptable portion of road on Highway 2, request by Commissioner Windom for support in getting project completed as soon as possible. Agreement was made by the Board of Commissioners to support Lincoln County in resolving this highway issue.

CONSIDERATION OF SETTLEMENT PROPOSAL: FLATHEAD WILDLIFE V. COUNTY

Present at the March 4, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Deputy County Attorney Dennis Hester, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to authorize Steve Cummings to sign the Stipulation for entry of judgment setting aside Road Abandonment 397. Commissioner Watne **seconded** the motion. Aye - Watne, Hall and Gipe. Motion carried unanimously.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD NAMING OF ROXLIN LANE

Present at the March 4, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **ROXLIN LANE**

Road generally running northerly off Homestead Drive and located in the southwest quarter of Government Lot 3, Section 7, Township 30 North, Range 20 West, P.M.M., Flathead County, Montana.

The public hearing will be held on the **23rd day of March, 2004, at 10:30 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 naming of **ROXLIN LANE**.

This notice shall be mailed to each landowner who has access off of the proposed **Roxlin Lane**, who has an address assignment on the proposed **Roxlin Lane**, or who owns property along the proposed **Roxlin Lane**.

Dated this 4th day of March, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Howard W. Gipe
Howard W. Gipe, Chairman

ATTEST:
Paula Robinson, Clerk

By: /s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

Publish on March 9th and 16th, 2004.

AUTHORIZATION TO CALL FOR BIDS: FAIRGROUNDS LIVESTOCK PAVILION

Present at the March 4, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to authorize the publication of the Invitation to Bid and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

INVITATION TO BID

The Flathead County Commissioners will receive sealed bids plainly marked "Flathead County Fairgrounds Building" for construction of a 45,000 square foot rigid frame steel structure at the Flathead County Fairgrounds until **March 22, 2004 at 10:00 a.m.**, local time at the office of the Flathead County Commissioners, at which time the Bids will be opened and read at **10:15 local time**, in the Commissioners' Office at the Courthouse, West Annex, 800 South Main, Kalispell, Montana.

Generally, the work consists of excavation, foundations, and erection of a rigid steel structure. The scope of work is more particularly described in the Project Manual.

**THURSDAY, MARCH 4, 2004
(CONTINUED)**

The Project Manual/Contract Documents can be obtained from Thomas, Dean & Hoskins, 690 North Meridian Suite 101, Kalispell, Montana 59901. Plans, specifications and Contract Documents are available for a non-refundable fee of \$50.00.

In addition, Contract Documents may be examined at the following locations:

Northwest Montana Plans Exchange, 2303 Hwy 2 East, Kalispell, MT 59901
Missoula Plans Exchange, 201 North Russell Street, Missoula, MT 59801
Great Falls Builders Exchange, Box 2027, Great Falls, MT 59403
Montana Contractor's Association, PO Box 4519, Helena, MT 59604
Associated Builders and Contractors, North 1404 Thor Court, Spokane, WA 99202

Contractors and any of the CONTRACTOR'S subcontractor's doing work on this project will be required to obtain registration with the Montana Department of Labor and Industry (DLI). Forms for registration are available from the Department of Labor and Industry, PO Box 8011, 1805 Prospect, Helena, MT 59604-8011. Information on registration can be obtained by calling 1-800-556-6694. CONTRACTORS are required to have registered with the DLI prior to bidding on this project.

All laborers and mechanics employed by CONTRACTORS or subcontractors in performance of the construction work shall be paid wages at rates as may be required by the laws of the State of Montana. The CONTRACTOR must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin. This project is subject to the Montana Contractor's Gross Receipt Tax.

The successful bidder must contract to give preference to the employment of bona fide residents of Montana in the performance of the work. A resident bidder will be allowed a preference against the bid of any nonresident bidder from any state or county that enforces a preference for resident bidders equal to the preference given in the other state or county.

Each bid or proposal must be accompanied by a certified check, cashier's check, or bid bond payable to Flathead County, in an amount no less than ten percent (10%) of the total amount of the bid. Successful BIDDERS shall furnish an approved Performance Bond and Labor and Materials Payment Bond, each in the amount of one hundred percent (100%) of the contract amount. Insurance, as required, shall be provided by the successful BIDDER(S) and certificate(s) of that insurance shall be provided.

The award of bid will be made solely by the issuance of a letter of award to the successful bidder by the office of the Flathead County Clerk and Recorder.

No bid may be withdrawn after the scheduled time for the opening of bids.

The right is reserved to reject any or all proposals received, to waive informalities, to postpone the award of the contract for a period of time not to exceed sixty (60) days, and to accept the lowest responsive and responsible bid which is in the best interest of the OWNER.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana
800 South Main
Kalispell, MT 59901

By: /s/Howard W. Gipe
Howard W. Gipe, Chairman

ATTEST:
Paula Robinson, Clerk

BY: /s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

Published March 7th, and 14th, 2004

Commissioner Watne made a **motion** to approve contract amendment between Flathead County and Thomas Dean & Hoskins for \$4300 and authorize Chairman to sign. Chairman Gipe **seconded** the motion. **Aye-** Watne and Gipe. **Nay-** Hall Motion carried by decision.

TAX REFUND: SOLBERG

Present at the March 4, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to deny tax refund to Mr. Solberg. Commissioner Watne **seconded** the motion. **Aye -** Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF ADOPTION OF RESOLUTION: NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Present at the March 4, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

**THURSDAY, MARCH 4, 2004
(CONTINUED)**

Commissioner Hall made a **motion** to adopt Resolution 1695 strongly encouraging the USFS to provide NEPA public participation, local government coordination, data, maps, analyses, evaluation, and documentation separately for each National Forest Unit, for the Lolo, Bitterroot, and Flathead National Forest. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: VOTER TABULATION SYSTEM & SERVICES AGREEMENT

Present at the March 4, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Clerk and Recorder Paula Robinson and Clerk Eisenzimer.

Commissioner Watne made a **motion** to approve agreement between Flathead County and Election Systems and Software. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

MEETING W/CONTRACT DEPT. HEADS

Present at the March 4, 2004 10:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Road Superintendent Charlie Johnson, Human Resources Director Raeann Campbell, Library Director Kim Crowley, Agency on Aging Jim Atkinson, RSVP Director Lee Coray-Ludden, Weed and Parks Superintendent Jed Fisher, Animal Control Director Richard Stockdale, Solid Waste Director Dave Prunty, Fairgrounds Superintendent Jay Scott, Planning and Zoning Director Forrest Sanderson, and Clerk Eisenzimer.

Due to this being a personnel matter, Road Superintendent requested that the meeting be closed. All parties agreeing, meeting was closed.

AUTHORIZATION TO PUBLISH INVITATION TO BID: FARM TO MARKET TRAIL

Present at the March 4, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Planning and Zoning Director Forrest Sanderson, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to authorize the publication of the Invitation to Bid and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

INVITATION TO BID

Sealed bids for construction of the **FARM TO MARKET ROAD PATH** - Kalispell will be received at the Flathead County Commissioners Office, 800 South Main Street, Kalispell, Montana 59901 until **10:00 A.M., April 8, 2004** and then publicly opened and read immediately thereafter.

The project work is generally described as but not limited to: Construct approximately 5490 feet of 10 feet wide asphaltic surface bicycle/pedestrian trail northwest of Kalispell, including culvert extension, storm drain culverts, site grading and seeding.

Plans and specifications are available for viewing at the Flathead Builders Exchange, 2303 Hwy 2 East, Kalispell, MT. Copies of the plans and specifications may be obtained from Neil Consultants, Inc., 4509 North Star Blvd. Great Falls, MT (406-453-5478). Plans and specifications will be available for a non-refundable fee of \$60.00.

There will be a Pre-Bid Conference held at the Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, MT at 2:00 P.M. on Thursday, March 25, 2004. Interested contractors are encouraged to attend.

All laborers and mechanics employed by contractors or subcontractors in performance of the construction work shall be paid wages at the rates as may be required by Federal Davis Bacon rates. The CONTRACTOR must insure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex, or national origin.

Each bid or proposal must be accompanied by a Certified Check, Cashier's Check, or Bid Bond payable to the County of Flathead, Montana, in an amount not less than ten percent (10%) of the total amount of the bid. Successful BIDDERS shall furnish and approved Performance Bond and a labor and materials Payment Bond, each in the amount of one hundred percent (100%) of the contract amount. Insurance as required shall be provided by the successful BIDDER(S) and a Certificate(s) of Insurance shall be provided.

This project is funded in part from The Community Transportation Program (CTEP). Award of the project is contingent upon concurrence from CTEP.

The Disadvantaged Business Enterprise (DBE) goal established for the contract is zero percent (0%). However, the use of DBE contractors is always encouraged. For information concerning Montana Department of Transportation certified DBE's, contact Leslie Wootan, MDT's DBE Coordinator, at (406) 444-6337.

The successful BIDDER will be required to have a proper Montana Public Contractor's License when the contract is signed. Subcontractors for work over \$5,000.00 shall also be a holder of a Montana Public Contractor's License also in the property class.

No bids may be withdrawn for thirty (30) days after the scheduled time for the public opening of bids.

**THURSDAY, MARCH 4, 2004
(CONTINUED)**

The right is reserved to reject any or all proposals received, to waive informalities, to postpone the award of the contract for a period not to exceed sixty (60) days, and to accept the bid that is in the best interests of the OWNER.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana
800 South Main Street
Kalispell, MT 59901

~~BY: /s/Howard W. Gipe~~
Howard W. Gipe, Chairman

ATTEST:
Paula Robinson, Clerk

~~BY: /s/ Monica R. Eisenzimer~~
Monica R. Eisenzimer, Deputy

Publish March 14th, 21st, and 28th, 2004

AUTHORIZATION TO PUBLISH INVITATION TO BID: HELENA FLATS TRAIL

Present at the March 4, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Planning and Zoning Director Forrest Sanderson, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to authorize the publication of the Invitation to Bid and authorize the Chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

INVITATION TO BID

Sealed bids for construction of the **HELENA FLATS TRAIL** - Kalispell will be received at the Flathead County Commissioners Office, 800 South Main Street, Kalispell, Montana 59901 until **10:00 A.M., April 8, 2004** and then publicly opened and read immediately thereafter.

The project work is generally described as but not limited to: Construct approximately 16,700 feet of 6.5 to 10 feet wide asphaltic surface bicycle/pedestrian trail northeast of Kalispell, including culvert extension, storm drainage, fencing, site grading and seeding.

Plans and specifications are available for viewing at the Flathead Builders Exchange, 2303 Hwy 2 East, Kalispell, MT. Copies of the plans and specifications may be obtained from Neil Consultants, Inc., 4509 North Star Blvd. Great Falls, MT (406-453-5478). Plans and specifications will be available for a non-refundable fee of \$60.00.

There will be a Pre-Bid Conference held at the Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, MT at 3:00 P.M. on Thursday, March 25, 2004. Interested contractors are encouraged to attend.

All laborers and mechanics employed by contractors or subcontractors in performance of the construction work shall be paid wages at the rates as may be required by Federal Davis Bacon rates. The contractor must insure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex, or national origin.

Each bid or proposal must be accompanied by a Certified Check, Cashier's Check, or Bid Bond payable to the County of Flathead, Montana, in an amount not less than ten percent (10%) of the total amount of the bid. Successful BIDDERS shall furnish and approved Performance Bond and a labor and materials Payment Bond, each in the amount of one hundred percent (100%) of the contract amount. Insurance as required shall be provided by the successful BIDDER(S) and a Certificate(s) of Insurance shall be provided.

This project is funded in part from The Community Transportation Program (CTEP). Award of the project is contingent upon concurrence from CTEP.

The Disadvantaged Business Enterprise (DBE) goal established for the contract is zero percent (0%). However, the use of DBE contractors is always encouraged. For information concerning Montana Department of Transportation certified DBE's, contact Leslie Wootan, MDT's DBE Coordinator, at (406) 444-6337.

The successful bidder will be required to have a proper Montana Public Contractor's License when the contract is signed. Subcontractors for work over \$5,000.00 shall also be a holder of a Montana Public Contractor's License also in the property class.

No bids may be withdrawn for thirty (30) days after the scheduled time for the public opening of bids.

THURSDAY, MARCH 4, 2004
(CONTINUED)

The right is reserved to reject any or all proposals received, to waive informalities, to postpone the award of the contract for a period not to exceed sixty (60) days, and to accept the bid that is in the best interests of the Owner.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana
800 South Main Street
Kalispell, MT 59901

~~BY: /s/Howard W. Gipe~~
Howard W. Gipe, Chairman

ATTEST:
Paula Robinson, Clerk

BY: /s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

Publish March 14th, 21st, and 28th, 2004

PRELIMINARY PLAT: HELENA FLATS ACRES

Present at the March 4, 2004 10:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Linda Stevens, Don Nelson, Michelle Siderius, Bill Astle, John Korpi, Peter Burkett, Robert Anderson, Loretta Olsen, John E. Osweiler, Shirley Anderson, Linda Johnson, Sherry Iavicoli, Marcus Hinrichs, Rod McIver, Karen Morehouse, Linda Christensen, Helen Gray, Fred Bryant, Planner Johna Morrison, and Clerk Eisenzimer.

Morrison reviewed the preliminary plat for Helena Flats Acres filed by Don & Cheryl Nelson and Dan & Michelle Siderius. Helena Flats Acres creates a twelve lot residential subdivision on 12.02 acres. The property is located at 1183, 1187 & 1191 Helena Flats Road northeast of Kalispell. Staff recommends approval of the Preliminary Plat.

Discussion continued regarding acceptability of Plan A compared to Plan B. By unanimous agreement, the Board of County Commissioners determined they would not support Plan A, therefore discussion regarding Plan B was held.

Dawn Marquardt speaking to "Plan B", all the lots are one acre plus in size. We came up with the two plans we thought we knew what was asked of us after the last time we went in which was last November. At that meeting several of the board members and one of the representatives of the Helena Flats Land Use Committee said they wanted one acre out there. They also spent some, quite a bit of time comparing this to Thompson Ranchettes No. 2 which is immediately across the street. Now those lots vary anywhere from I believe it is .6 of an acre up to over an acre. Thirty of those lots are less than one acre in size, so we felt that plan A, either plan met what they were asking for. We were under the impression when they were talking about one acre they were talking about a density. After we submitted plan A, my client spoke with some of the members of the Helena Flats Land Use Committee and that's when they said they wanted one acre lots, and that's when we submitted plan B. My clients are fine with either plan. We felt that the park was a good addition to the property but if you don't see it that way then that's fine too. I would like to point out that last year, July of last year, you saw a subdivision proposed on Lot 5 that divided Lot 5 into four lots. The planning and the board approved dividing Lot 5 into four lots ranging from .9 acre to just over one acre in size. That subdivision was a major subdivision it went through planning board review, nobody spoke in opposition to the subdivision. Therefore like I say, we felt that what we were doing was in total compliance with what had been done out there before. The findings of fact on that subdivision that you passed stated that the development is compatible with surrounding ownership. That's four lots on four acres, this is twelve lots on twelve acres so and it's within three hundred feet of the previous subdivision. Commissioner Hall asking Ms. Marquardt questions about water quality. Ms. Marquardt answering his questions, well at the hearing in November, Brian Lonius from Envirotech Consulting was there and spoke to that. At the last public hearing Jeff Larsen on the Planning board spoke to it at length, explaining in detail what has to take place in order to get this approved. The fact that they do take in cumulative that's in all of the surrounding developments before it's approved.

Bill Astle continued I'm kind of a Johnny come lately into it, I represent the applicants. I am aware of the background and I think probably at the outset, I'd like to say that I'm also aware of how confined the record is before you. I know Forrest admonished everybody last time around. I read those minutes. Really, on a Ravalli County recent case they felt and accurately so that the record and all comes from the public hearing of the Planning Board and you don't necessarily expand it or modify it here. For the reason that's not what the planning board heard then. So I think that it is relevant for in making your decision to examine that record and have any speaker today address that record and that's what I'm going to do. I have been doing land use for as long as I have been in the valley, 30 years. I've always told you this, Howard has probably heard this to the point where he gets nauseous when I tell him but there's always three interests. There's the governing body, and I've represented the governing body; my first job in my life as an attorney. There's an applicant or a co-developer and then there's the neighboring property owners and the issue is all the same. It's where are the rights and where are reasonableness, in fact, when you take an action against a government like that the court's rule in looking at it is did they act reasonably? So I always say that's the guideline. A lot of lawyers shy away from land use because they say the rules are nebulous, we can't put our hand or finger on it. And that's not true; I think there are always rules, even though in this particular area of Flathead there is no zoning. There is some guidelines for us, the Master plan, even though I think development out there has gotten ahead of the Master plan and I think therefore what happens is what the planning staff did and the planning board and I think what the Helena Flats residents are doing. Looking to compatibility; it's not foreign to you, a little over four years ago I was here for the Helena Flats Coalition and helped them form their coalition and there was an interest, same type of land use application without zoning to protect anybody without any covenants on the land, it was a wrecking yard. That particular applicant felt oh, no zoning, I can do what I want out here. Well, no you can't because there are some issues with the Master Plan and compatibility. In that particular instance it was

**THURSDAY, MARCH 4, 2004
(CONTINUED)**

the formation of the Helena Flats Coalition and you acted as a Commission denying it because it was what, unreasonable and incompatible. It was an industrial use in the heart of residential, so as you go forward, Helena Flats has struggled like a lot of areas of the County trying to come up with some land use regulations. They haven't in this amount of time so we're still faced with what is compatible and what is reasonable. The history of the first application of 9 lots when my clients purchased it, they felt with the costs of subdivisions and all and the infrastructure that was an under utilization. They came to you with seventeen lots and I think you felt that was an over utilization and I happen to concur with that. That was a density that I don't think I would want my fingerprints on. Then they came back from those public hearings and decided where can we go now. They took all the mix into account, the planning staff, the planning board hearing on that first one and the residents out there and what was the mix was an acre density should not go any less than that and I see that replete throughout everything I've read. And in fact, the first planning board hearing which a record relevant to you today, they asked questions when they were taking their information and hearing as to the people who came forward. One particular speaker allegedly spoke with six hundred or three hundred or some people. I think it was 217, and the particular question in the minutes from the planning board is that I'm inclined to agree with you ma'am that the density is too great, if we were to consider one acre, what would you feel and that lady said I feel that is compatible, we should not go less than one acre. So that was the impetus for the new application that is now before you and I think when you look at it again, without zoning as you know dictates that lot size when you have it, what do you use, the master plan I think is outmoded, the development is ahead of it, so you take that into account and I think when you look at it the acre density is appropriate, is compatible and is reasonable. I think the planning staff has recommended that to you, the planning board has also. I think the confusion, and I don't want to belabor any time about Option A. Option A is and I tried to explain in my letter and I'm sorry for the confusion, I tried to use a six lot in half of it and sixty acres and divide and show you that the lot of the acreage used, no matter how you slice it is one acre. I think the open space, the planning board and planning staff saw it as something desirable. I've read the letter to you from the planning coalition and I think they feel as you do as I heard today that that option A is going to create a precedent no matter how you slice it. So they are not inclined to support that and they're telling you that. As to option B, they felt they didn't have enough time but I think the time is before you now and the record reflects that they have historically taken that position of one acre. I think there's not unanimity among the land coalition as to opposition to this. I think that as to the one acre, it has been on the record and that is what I believe motivated the Planning board in recommending to you. I read the rationale for your last refusal of the seventeen lots. You clearly were concerned about the planning board not being in favor. You have it, you have the planning staff and I think you also have generally speaking the people out there and I think, when I called them, I always call them, I called Shirley Anderson, she was the active party participant and still is four years with the wrecking yard and I asked as to whether there were any guidelines that they have adopted such as some indication as what they would objectively show a land use people. Any of their own members that may have something to do with their property would they take a stand without having to take them one at a time as they come down the pike and there is no such thing. I told her in my humble opinion, you ought to have something like that, you should have had it long ago so that a developer or a land owner anybody can say where is you or where are you on this particular development. And I think in so far as now, I am satisfied that the record reflects before you that one acre is compatible, it is reasonable, and alternative A is your choice to preserve and protect that precedent then the developer is going to do that. The developer is also open to the property owners to any condition. There is a concern out there is this creating some precedent. Even within the property and I think that in the absence of zoning and I've talked to Johna and the staff about that this property owner would be willing to covenant or accept conditions that no further development without the input of the Helena Flats Coalition. So I think that they are coming to you as fair as they can between two extremes. A nine lot existing, a seventeen lot that's over dense, somewhere in between that is reasonable and respects the rights of the property owners in the neighborhood.

Commissioner Hall reminded all in attendance that this is not a public hearing.

Commissioner Hall made a **motion** to adopt Staff Report #FPP-03-49 with Plan B as Findings of Fact. Commissioner Watne **seconded** the motion. **Aye** – Hall and Gipe. **Nay**- Watne Motion carried by decision.

Commissioner Hall made a **motion** to approve the Preliminary Plat for Helena Flats Acres subject to 15 conditions. Commissioner Gipe **seconded** the motion. **Aye** –Hall and Gipe. **Nay**- Watne. Motion carried by decision.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on March 5, 2004.

FRIDAY, MARCH 5, 2004

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Gipe, Commissioners Hall and Watne, 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 March 8, 2004.