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## MONDAY, FEBRUARY 6, 2006

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

**Commissioner Hall to attend RC&D meeting in Thompson Falls**  
**8:00 a.m. Weed & Parks Board meeting at the Weed & Parks Office**  
**4:00 p.m. Roadless Rule Task Force meeting at the Earl Bennett Building**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 7, 2006.

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## TUESDAY, FEBRUARY 7, 2006

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

### **Chairman Watne opened the public comment on matters within the Commissions' Jurisdiction,**

[9:04:08 AM](#)

Jerry O'Neil stated that he had been waiting for a long time for the Justice of the Peace office to come vacant so that he could file for it. He stated that he would love to be a Justice of the Peace in Flathead County, and he noticed that he might have some competition because there are other people who have already filed, but on January 20 the county commissioners passed a resolution that prevents him from filing. He stated that the reason they filed the resolution was to make it a Justice Court of Record, which is fine, but in so doing they also decided what the qualifications for the Justice of the Peace would be and decided that they would have to be a licensed attorney by the State of Montana. He then stated that the legislature had that issue before them in the last session, they debated it strongly, and they left the statute so that they did not have to be a licensed attorney. He stated that he thought that some of the reasons for that were that some Clerk's of Court and Court Reporters that have had quite a bit of experience in the court room, and quite a bit of knowledge about court procedures, which would be excluded by requiring a Justice of the Peace to be a licensed attorney, and also there are other people that might be good Justice's of the peace. He then stated that there are also some licensed attorney's who would not be good Justice's of the Peace. He stated that some of them are dishonest, and they have seen those in the past, some of them have no court experience, some could be a patent attorney or a corporate attorney who never appears in the courtroom. He stated that he had some courtroom experience, and that he had been in and around courtrooms for about thirty years, and he thinks that the voters of Flathead County should have the right to vote for against him, but that it should be up to the public to decide whether or not they want him to be a Justice of the Peace. He also stated that he did not believe that he should be excluded because he is not licensed with the State of Montana.

Commissioner Watne asked Jerry if he was licensed anywhere else.

Jerry O'Neil stated that he was licensed on the Blackfeet Reservation. He then stated that he also had some questions about whether the resolution, establishing qualifications, is within the jurisdiction of the County Commissioners. He stated that the Montana Constitution states that the qualification for Justice of the Peace shall be established by law, and in some instances a resolution could be a law and some not a law, but it is debatable. He also stated that the Montana Supreme Court says that they are the ultimate law above who came be a Justice of the Peace, and about the training of the Justice of the Peace. He stated that the Legislature passed a statute that states that a Justice of the Peace must go to two training sessions a year, and then the Montana Supreme court stated that was very well that they can pass that law, but under article 7 Section 2 they are the ones that can say what the qualifications of the Judges are, and they said that they had to go to more training than that. He then stated that that also reinforces the argument that a Justice of the Peace should not have to be a licensed attorney because once they are elected than they are compelled to go to the training in order to sharpen their skills to be a Justice of the Peace.

Commissioner Hall stated that on the second page of the letter that Jerry submitted under paragraph on Montana Constitutions, it says "that MCA 37-10-207 grants county commissioners the authority to set the salary for the Justice of the Peace by resolution and that MCA 37-10-1055 grants the authority to establish the Justices Court as a Court of Record by Resolution but no where are the commissioners given the authority to provide for the Justice of the Peace qualifications or training by Resolution", so basically he is saying that by what they did the established the court as a Court of Record, but that they are not authorized to describe what the qualifications are.

Jerry O'Neil stated that he believed that the qualifications are set by statute or by Montana Supreme Court. He then stated that they are specifically authorized to create a Justice Court as a Court of Record by Resolution according to that one statute, that says County Commissioners can establish a Justices Court of Record by Resolution, and they are specifically given the authority to establish the salary of the Justice of the Peace by Resolution, but no where can he find in the statute where it allows them to set the qualifications by resolution. He stated that it has been found in Montana Case Law, he thought the case was BAC vs US, that they can do a resolution, if the legislature said that you have to be thirty seven years old to get your taxes refunded, they can do a resolution that says that anybody says they are thirty seven can come before the commissioners and they will determine whether they are thirty seven, because that is administrating the function that the legislature gave them. He continued by saying that they can not pass a resolution and say that they have to be thirty eight to get their taxes refunded, because the legislature already established by statute that it would be thirty seven. He stated that he did not know if he was explaining it very good, and he is not sure if he understood it good enough to really explain it good, but a resolution can be passed in order to carry out a statute, but a resolution can not be passed to create a statute.

Commissioner Hall asked if Jerry had consulted with the County Attorney's Office. He then stated that obviously that is where they got their council and this is also where they got the language for their resolution.

Jerry O'Neill stated that he had discussed it with the County Attorney's Office, but he had discussed it more with the State Legislative Council, and the Secretary of State's Office.

Commissioner Hall questioned what they had to say.

Jerry O'Neill stated that the Secretary of State's Office told him that they were going to talk about it with the County Attorney and they also said that the commissioners had a right to appoint a Justice of the Peace, and if they appoint a Justice of the Peace they would have the right to appoint one with any qualification that they would want.

Commissioner Hall stated that he was just trying to understand it as well, and stated that what Jerry had just said was that they actually do have the authorization to establish the criteria that they want their Justice of the Peace to be.

Jerry O'Neill stated that they had the criteria to establish the qualifications that they are going to appoint to be a Justice of the Peace, but he did not believe they have the right to establish to change the statute to establish the criteria other than what is required by statute for what the electors will elect for Justice of the Peace.

Commissioner Hall stated that it sounded to him like, by statute, the legislature said they would leave it up to the County Commissioners.

Jerry O'Neill stated that no the statute states specifically that they can create a Justices Court of Record by Resolution, and then it also says that the Justices of the Peace salary will be set by the County Commissioners by Resolution. He stated that the statute states that the Justice of the Peace salary can not exceed ninety percent of the District Court Judges salary, so if the commissioners passed a resolution setting the pay at ninety five percent of the District Court Judges than they can not do that because they would be changing the statute or creating a law rather than administrating a law, and to set the qualifications they are creating a law rather than administrating a law.

Commissioners Brenneman informed Jerry O'Neill that he thought he had to options at this point. He stated that in Jerry's letter he asks that they reconsider their resolution and such an action would require notice on the agenda, and he could ask for such a consideration before the three commissioners and if he gets at least two of them to agree with that than that would mean that the resolution would be reconsidered. He then stated that his other option would be to litigate this.

Jerry O'Neill stated that he could certainly do that, but he considers the three commissioners to be friends of his and would rather just come up and ask them to please do it this way, because it would be the simplest way and he thinks the right way. He stated that he believed that it would be better for the public and better for everybody.

Commissioner Hall asked what the deadline was for filing.

Jerry O'Neill stated that he thought it was around March 23 or 24.

Commissioner Hall commented that he had two months in which to try and work this out.

Commissioner Watne suggested that they talk to the County Attorney's office on the issue.

Commissioner Brenneman stated that he thought that if Mr. O'Neill was requesting to them that they reconsider this, than they are obligated to do that with the minimum of two days notice.

Commissioner Hall stated that they would still need to talk to the County Attorney's Office.

Jerry O'Neill stated that if they would like him to be at the meeting when they do reconsider he would like to have notice of that meeting.

[9:16:45 AM](#)

Norman Beach, the managing member of Nolan Holding, stated that he is developing the Glacier Business Center between Fenders and Spencer's Restaurant. He stated that there were two things that he needed to move forward with that project were clean water, and a cross over from the Montana Department of Transportation. He then stated that was one of his requirements but before them was the cross over, which he received, along with Donna Dawson. He stated that they required them to join their crossover together, which they had done, and this was very important to both of them in reconstruction of Highway 93 from Happy Valley to just before the golf course, from the two lane to the four lane, as it would benefit their location in term of the safety of the ingress and egress. He continued by saying that, speaking to the MDOT, the first leg of the reconstruction is slated to go to bid in July of this year, and the first leg is from Happy Valley, the Midway Minimart where it narrows from four lanes to two lanes and then opens up again to the south end of Majestic. He went on to the second leg stating that it is from the south end of the Majestic to the opening of the four lane highway in front of the golf course. He stated that today, at the end of his presentation, he had one question for them and, if it was appropriate, one request of the commissioners. He then reviewed the approximate traffic counts for the road that have ingress and egress on Highway 93 within that area. He stated that there is a tremendous amount of ingress and egress on that stretch, not to mention that school buses that pick up children come to a complete stop at five different locations around rush hour in the morning and rush hour in the evening. He then stated that sadly about a year and a half ago a good friend of his, Theresa Williams, just before the opening of the second leg swerved and missed a dog on the two lane section, just before the four lane section at the gold course. He stated that she rolled her car, slid into the oncoming traffic, received minor head injuries, and then passes away. He also stated that his question to the commissioners is if there is any reason that he should know of that the first leg should not be let and go in July of this year to preclude it from going before the second leg, and secondly would it be appropriate for the county commissioners to join together and wrote a letter to the Montana Department of Transportation urging them to finish the first section as soon as possible. He stated that this is very high on their priority, and that they have all of their right of way they need on the first leg, and only one right of way on the second leg that they are missing, which is on Church Drive. He then stated that they had had some engineering problems in consideration of Church Drive, his understanding being that from going to Church Drive, and they are in preparation for a large growth over the next fifteen to twenty years in migration of housing to that area, east and west of Church Drive. He stated that they want an underpass under Church Drive with a clover leaf coming back on top.

Commissioner Hall stated that they are designing that now, and that is the reason, in his opinion, that is why they are letting that way first. He stated that they are in the process of designing that over and underpass which is exactly what they need and want their.

Norman Beach stated that the Stillwater is going to go, it is a wonderful area, and will be highly impacted residentially over the next twenty years. He asked again if there is any reason that he should know of, or that the public should know of, that that first leg should not be let as soon as possible.

Commissioner Brenneman stated that they could write a letter.

Norman Beach stated that he has a very strong group, but would just like to urge them on.

Commissioner Brenneman stated that he would be willing to sign a letter encouraging them to step it up.

Norman Beach asked them just to encourage MDOT to move forward.

Commissioner Brenneman stated that he would not count on it happening any sooner.

Norman Beach stated that they know how highway funds can be moved around.

Commissioner Hall stated that his conversation with them last week was that they are anticipating, even though they have it in the plans to not start leg two until 2008, that if they get this over underpass designed, which they are in the process, and have all of that secured, that they are going to let the bid for the whole project at the same time. He stated that that had been what he had been told, but they also told him not to quote them.

Norman Beach stated that it would be great if the whole thing would go at one time.

**No one else rising to speak, Chairman Watne closed the public comment period.**

#### **BI-MONTHLY MEETING W/ NORM CALVERT, IT**

[9:24:20 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Norm Calvert

Discussion was held relative to the possible restructuring of the IT department, the land conversion process, projects being worked on, staff shortage, surplus computer equipment,

#### **FINAL PLAT: HODGE CREEK SOUTH**

[9:39:16 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Holland reviewed the application submitted by Dennis Pewitt for final plat approval of Hodge Creek South Subdivision, which will create five residential lots. The site is located off Ashley Lake Road, west of Kalispell. Preliminary plat approval was granted on July 5, 2005, subject to 13 conditions. All conditions have been met.

Commissioner Hall made a **motion** to approve the final plat of Hodge Creek South Subdivision. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **CONSIDERATION OF PRINTING BIDS: PLANNING & ZONING OFFICE**

[9:40:31 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the bid submitted by Great Northern Printing in the amount of \$79.80 for 4 sets of 500 business cards. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **MONTHLY MEETING W/ RAEANN CAMPBELL, HUMAN RESOURCE OFFICE**

This meeting was not held.

#### **CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: BEGG TRUST ZONE CHANGE / WILLOW GLEN ZONING DISTRICT**

[10:10:30 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Jeff Harris, Eric Giles

Harris reviewed the Begg Trust zone change application.

Commissioner Hall made a **motion** to adopt Resolution 654BD. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

RESOLUTION NO. 654 BD

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 22<sup>nd</sup> day of December, 2005, concerning a proposal to change the zoning designation in a portion of the Willow Glen Zoning District from R-2 (One Family Limited Residential) to R-5 (Two Family Residential);

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

WHEREAS, the Board of Commissioners reviewed the recommendation of Flathead County Planning Board regarding the proposed change in the Willow Glen Zoning District;

WHEREAS, based upon that recommendation and the testimony of the public, 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. 654 BC dated December 22, 2006) to change the zoning designation in a portion of the Willow Glen Zoning District from R-2 to R-5; and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on December 27, 2005, and January 3, 2006, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders.

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 Willow Glen Zoning District to change the zoning designation for the area described on Exhibit "A" hereto from R-2 (One Family Limited Residential) to R-5 (Two Family Residential), as those terms are used and defined in the Flathead County Zoning Regulations, located in Permanent File No. 93270 13500, in the Flathead County Clerk and Recorder's Office.

DATED this 7<sup>th</sup> day of February, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

By: \_\_\_\_\_  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser  
Deputy

**Begg Trust**  
**ZONE CHANGE FROM R-2 TO R-5**  
**STAFF REPORT #FZC-05-24**

**Location and Legal Description of Property:**

The site proposed for the map amendment is located on Willow Glen Drive. The site is about a ¼ mile southeast from the City of Kalispell. The subject property is legally described as Lot 1 of Block 1, Kalispell School Addition in Section 16, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

**BOARD APPOINTMENT: ECONOMIC DEVELOPMENT AUTHORITY**

10:04:42 AM

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Hall made a **motion** to appoint Charlie Grenier to the Economic Development Authority Board. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**MEETING W/ LEE JONES RE: PAVING OF MOUNTAIN MEADOWS ROAD**

10:27:35 AM

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Charlie Johnson, Richard Stockdale, Lee Jones

Discussion was held relative to a request, by the property owners along Mountain Meadows Road, to have their road paved. Charlie Johnson reviewed the history of the road. The commissioner advised Lee Jones on the RSID process.

**1:15 p.m. 911 meeting at the Justice Center**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 8, 2006.

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### WEDNESDAY, FEBRUARY 8, 2006

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

**11:00 a.m. County Attorney meeting at the County Attorney's Office**

**11:30 a.m. Long Range Planning Task Force Affordable Housing Committee meeting at the Earl Bennett Building**

**2:00 p.m. Commissioner Brenneman to attend State EIS meeting at the Earl Bennett Building (till 5)**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 9, 2006.

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### THURSDAY, FEBRUARY 9, 2006

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

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

#### **MONTHLY MEETING W/ JEFF HARRIS, PLANNING & ZONING OFFICE**

[9:04:17 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Jeff Harris, Don Avery

Discussion was held relative to a planned planning board retreat, a joint Long Range Planning Task Force and Planning Board workshop, a growth policy draft outline and timeline, departmental activities and fees, the recent planning board meeting, and the increase of applications.

#### **EGAN SLOUGH PLANNING & ZONING COMMISSIONER ANNUAL MEETING**

[9:33:39 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Paula Robinson, Adele Krantz, Amy Waller, Ashley Mason, Myron Mast

Roll Call

Old Business discussed included a request made to join the Egan Slough Zoning area.

Commissioner Hall made a **motion** to approve the minutes for January of last year. Commissioner Watne **seconded** the motion. **Aye** – Paula Robinson, Adele Krantz, Myron Mast, Gary Hall, Robert W. Watne, and Joe Brenneman. Motion carried unanimously.

Commissioner Hall made a **motion** to nominate Myron Mast for Chairman. Robert W. Watne **seconded** the motion. **Aye** – Paula Robinson, Adele Krantz, Myron Mast, Gary Hall, Robert W. Watne and Joe Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to keep the Vice Chairman and Secretary the same as they are now. Robert W. Watne **seconded** the motion. **Aye** –Paula Robinson, Adele Krantz, Myron Mast, Gary Hall, Robert W. Watne and Joe Brenneman. Motion carried unanimously.

New Business discussed included the introduction of Ashley Mason and her comments on her appreciation of the zoning district.

Commissioner Watne made a **motion** to adjourn. Paula Robinson **seconded** the motion. **Aye** –Paula Robinson, Adele Krantz, Myron Mast, Gary Hall, Robert W. Watne and Joe Brenneman. Motion carried unanimously.

#### **PRELIMINARY PLAT: RIDGEVIEW PARK**

[10:04:35 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Jeff Harris, Nicole Lopez-Stickney, Dawn Marquardt, Debbie Shoemaker, Max Corder, Bob Young

Lopez-Stickney reviewed the application submitted by 83 Development LLC for preliminary plat approval of Ridgeview Park Subdivision, a major subdivision that will create 5 commercial lots. The subdivision is proposed on 5.31 acres and will be served

by public water and sewer. The proposed subdivision is located on MT Highway 82 in Bigfork, and is zoned B-3 Community Business. There are 24 attached conditions. Staff recommends approval.

Commissioner Hall made a **motion** to adopt Staff Report FPP-05-78 as findings of fact. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Dawn Marquardt addressed her concerns with conditions including the additional easements they have been conditioned to provide which will benefit the neighbors and frontage road concerns.

Commissioner Hall made a **motion** to change the road easement widths to fifty feet which shall include the bike path easement. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Dawn Marquardt then addressed her concerns with condition number 6 requiring sidewalks in that they do not know where the driveways or business will be so how can they put in sidewalks.

Commissioner made a **motion** to remove condition six and add to condition 20 that all lot owners shall provide a designated pedestrian walkways for all lots that abut the internal subdivision road. Commissioner **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve the preliminary plat of Ridgeview Park Subdivision subject to 24 amended conditions. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### CONDITIONS

1. The internal subdivision road shall be certified by a licensed engineer and constructed with a minimum 60-foot right-of-way, a 24-foot travel surface, and 55-foot radius cul-de-sac, in accordance with Section 3.9 of the Flathead County Subdivision Regulations.
2. The internal subdivision road shall be paved. [Section 3.9(a)(1) FCSR]
3. The subdivider shall install a stop sign and road identification sign at the intersection of Montana Highway 82 and the subdivision access road in accordance with Section 3.9(I)(8) of the Flathead County Subdivision Regulations and in compliance with Montana Department of Transportation requirements.
4. The subdivider shall meet all requirements from the Montana Department of Transportation and the Flathead County Subdivision Regulations for the possible extension and use of the existing frontage road serving the adjacent businesses.
5. The subdivider shall obtain and show proof of a valid approach permit for the subdivision from the Montana Department of Transportation. [Appendix C (III)(G) FCSR].
6. A letter from an engineer licensed in the state of Montana shall certify that all improvements have been installed to specifications. This certification shall include all roadways, drainage systems, and sidewalks. [Appendix C (III)(F) FCSR]
7. A Road Maintenance Agreement shall be formed which will require each property owner to bear his/her pro-rata share for road maintenance of the internal subdivision roads and designated pedestrian walkways. [Section 3.9(J)(3) FCSR]
8. The subdivider shall receive physical addresses and name all roads in accordance with Flathead County Resolution #1626. The addresses and road names shall appear on the final plat. [Section 3.9(I)(7) FCSR]
9. All areas disturbed during development of the subdivision will be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA & Section 3.12(J) FCSR]
10. All storm water, water and sewer facilities and drainage plans shall be approved by the Flathead City-County Health Department and the Montana Department of Environmental Quality. [Section 3.14(C) FCSR; Section 3.15(C) FCSR; Section 3.12(A) FCSR]
11. A letter shall be obtained from the Bigfork Fire District stating that the fire access and suppression system has been reviewed, approved and installed in accordance with its requirements. [Section 3.14(B) FCSR]
12. The subdivider shall furnish a will serve letter from the Bigfork Water and Sewer District for the number of lots proposed.
13. All utilities shall be placed underground to abut and be available to each lot, in accordance with a plan approved by the utility companies. Utilities and easements shall comply with Section 3.17 and 3.18 of the Flathead County Subdivision Regulations.
14. The subdivider shall create a landscaped buffer on Lots 1 and 2 between the future building sites and Montana Highway 82. [Section 3.9(J)(4) FCSR]
15. The subdivider shall create a vegetative buffer on the lots bordering the agricultural land to the north and west. This buffer shall run along the western border of Lots 2, 3, and 4, and the northern border of Lots 4 and 5. [Section 3.9(J)(4) FCSR]
16. Any outdoor lighting used shall be directed in such a way as to be contained within the boundaries of the property and shall be hooded, screened, or directed in a manner that it shall not be detrimental to the adjoining property owners or the neighborhood. [Section 5.12 FCZR]
17. The subdivider shall provide a common off-street mail pick-up facility and vehicular pull-off in compliance with Section 3.22 of the Flathead County Subdivision Regulations.
18. The following statements shall be placed on the face of the final plat:
  - a. All address numbers shall be visible from the road, either at the driveway entrance or on the house.
  - b. The Road Maintenance Agreement shall be responsible for maintenance of the private roadways and Common Areas. Roads shall be maintained, including necessary repairs and snow removal, to ensure safe all-weather travel for two-way traffic.
  - c. All utilities shall be installed underground.
  - d. Lot owners are bound by the soil disturbance and weed management plan to which the subdivider and the Flathead County Weed Department agreed.
  - e. The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the

construction, maintenance, repair, and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as "Utility Easement"

- f. **Waiver of Protest**  
**Participation in Special Improvement District**  
\_\_\_\_\_ (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.
- g. Lot owners shall provide a designated pedestrian walkway on the portion of their property abutting the internal subdivision road.
19. All required improvements shall be completed in place, or a Subdivision Improvement Agreement in accordance with Chapter 8 of the Flathead County Subdivision Regulations shall be provided by the subdivider, prior to final approval by the County Commissioners. [Chapter 8 FCSR]
20. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E) FCSR]
21. The preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6) FCSR]
22. The subdivider shall provide a fifty (50) foot wide road and bike path easement extending along the southern portions of Lots 1 and 2, abutting Highway 82. Within this easement, forty (40) feet shall be dedicated to road and ten (10) feet shall be dedicated to bike path. Additionally, the thirty (30) foot easement located along the northern portion of Lot 4 shall be eliminated.

#### **FINAL PLAT: JEWEL BASIN PLAZA**

[10:52:29 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Jeff Harris, Nicole Lopez-Stickney, Dawn Marquardt, Debbie Shoemaker, Tara Harbin

Lopez-Stickney reviewed the application, submitted by West Wood Development with technical assistance from Marquardt & Marquardt Surveying and Carver Engineering, for final plat approval of Jewel Basin Plaza, a subdivision creating 16 commercial lots. The proposed subdivision is located to the east of Streeter's corner, and area where Montana Highway 83 intersects with Montana Highway 35. Preliminary plat approval was granted on November 23, 2004 subject to 17 conditions. All conditions have been met or otherwise addressed

Commissioner made a **motion** to approve the subdivision improvement agreement and the final plat of Jewel Basin Plaza. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **CONSIDERATION OF ADOPTION OF RESOLUTION OF INTENT: EXPAND WHITEFISH FIRE SERVICE AREA BOUNDARIES**

[10:56:57 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser

Commissioner Brenneman made a **motion** to adopt Resolution 1919. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### RESOLUTION NO. 1919

WHEREAS, the Board of Commissioners created the Whitefish Fire Service Area under the provisions of Section 7-33-2401, M.C.A.;

WHEREAS, the Board of Commissioners has received a petition signed by owners of land in the West Valley Fire District to be transferred to the Whitefish Fire Service Area;

WHEREAS, Section 7-33-2401(4), M.C.A., allows the Board of Commissioners to alter the boundaries of a fire service area; and

WHEREAS, the Board of Commissioners deems it appropriate to amend the boundaries of the Whitefish Fire Service Area as petitioned by the landowners.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners gives notice of its intent to alter the boundaries of the Whitefish Fire Service Area to transfer the following properties, currently in the West Valley Fire District, to the Whitefish Fire Service Area:

The following tracts in Township 30 North, Range 21 West, P.M.M., Flathead County, Montana:  
Section 27 - 1+, 2+, 2-100, 3A, 3C, 3CA, 3CAB, 3CAA, 3D, 8 and 8-100,;  
Section 28 - 1+, 2, 4, 5, 5C, 5F, 5G, 5H, 5J, 5K, 5L, 5M, 6, 6A, 6AA, 6B, 7, 9BA, 9BB, and Lots 1 through 5 in Arena View Subdivision;  
Section 33 - 3AA, 3AB, 3B, and 6; and  
Section 34 - 1+, 1-100, and 7B.

BE IT FURTHER RESOLVED that the Board of Commissioners shall conduct a public hearing on the 27<sup>th</sup> day of **February, 2006**, at **10:00 o'clock, a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana, to receive written protests from property owners of the property described above and to receive general protests and comments relating to the transfer of the described property into the Whitefish Fire Service Area by amending the boundaries of the Whitefish Fire Service Area.

BE IT FURTHER RESOLVED that notice of the passage of this resolution of intention shall be given pursuant to the provisions of Section 7-33-2401(2)(a), M.C.A.

Dated this 9th day of February, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

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

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser

Deputy

Commissioner Hall made a **motion** to approve the notice of passage and authorize the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### NOTICE OF PASSAGE OF RESOLUTION OF INTENTION WHITEFISH FIRE SERVICE AREA

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it passed a Resolution of Intention (Resolution No. 1919) on February 9, 2006, to amend the boundaries of the Whitefish Fire Service Area.

The proposed boundary change is for the purpose of transferring the following property from the West Valley Fire District into the Whitefish Fire Service Area:

The following tracts in Township 30 North, Range 21 West, P.M.M., Flathead County, Montana:  
Section 27 - 1+, 2+, 2-100, 3A, 3C, 3CA, 3CAB, 3CAA, 3D, 8 and 8-100,;  
Section 28 - 1+, 2, 4, 5, 5C, 5F, 5G, 5H, 5J, 5K, 5L, 5M, 6, 6A, 6AA, 6B, 7, 9BA, 9BB, and Lots 1 through 5 in Arena View Subdivision;  
Section 33 - 3AA, 3AB, 3B, and 6; and  
Section 34 - 1+, 1-100, and 7B.  
A map is available for viewing at the Clerk and Recorder's Office, 800 South Main, Kalispell, MT.

A public hearing will be held on the 27<sup>th</sup> day of February, 2006, 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 accept written protests from property owners of the property described above and receive general protests and comments relating to the transfer of the described property into the Whitefish Fire Service Area by amending the boundaries of the Whitefish Fire Service Area.

DATED this 9<sup>th</sup> day of February, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

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

By /s/Kimberly Moser

Deputy

Publish on February 14 and February 21, 2006.

#### **CONSIDERATION OF REVISED RSID POLICY**

[11:01:26 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the revised RSID Policy. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **BOARD APPOINTMENTS: FLATHEAD COUNTY MOSQUITO DISTRICT**

[11:02:51 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Joe Russell, Laurel Raymond

Commissioner Hall made a **motion** to appoint Glen Aasheim as the Health Board Representative for a three year term and Joe Brenneman as the Commissioner Representative for one year. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to appoint Linda DeKort for a three year term. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to appoint McGregor Rhodes for a three year term. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to appoint Ann Waltz for a three year term. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Discussion was held relative to the funding of the mosquito district.

#### **TAX REFUND: COLUMBIA CONTAINERS**

[9:30:59 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the tax refund request for Columbia Containers. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **AWARD BIDS: ASPHALT, CHIPPING, CRUSHING, TIRES, PROPANE, GASOLINE & DIESEL / ROAD DEPT**

[11:12:19 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Ted Gilbertson

Asphalt Bids (CRS-2 Chipping Oil for 2006 – Montana Refining of Great Falls at \$310.00 per ton

Asphalt Bids (pg6422, PG5822 & SS-1 Tack – Montana Refining of Great Falls at \$280.63 per ton

3/8 Chipping Bid – Helena Sand & Gravel at \$9.50 per ton

3/4 Crush Bid, Grade “B” – Old Steel Bridge Pit – Schellinger Construction Co at \$3.40 per ton

Tire Bids for 2006 – Tire Rama for new tires – Les Schwab for recap tires

Propane Bids for 2006 – Northern Energy Delivery cost of \$.06 per gallon with a \$1.00 yearly rental fee

Gasoline & Diesel Bids for 2006 – City Service Valcon.

Commissioner Brenneman made a **motion** to approve the bids as recommended by the road department. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **DOCUMENT FOR SIGNATURE: DEQ CONTRACT #206024 / HEALTH DEPT**

[9:25:51 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the DEQ contract #206024 for the Health Department and authorize the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **CONSIDERATION OF HR TRANSMITTAL FORM: BUILDING MAINTENANCE WORKER II / ROAD DEPT**

[9:29:30 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser

Commissioner Brenneman made a **motion** to approve the HR transmittal form for the Building Maintenance Worker II for the Road Department. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

**7:00 a.m. Commissioner Hall to attend MT West Economic Development meeting at the FEC Boardroom**

7:00 a.m. Commissioner Brenneman to attend DUI Task Force "Crash, Injury & Healthcare" at KRMC (till 9)  
1:00 p.m. Commissioner Brenneman to attend HazMat Advisory Board meeting w/ Martha smith  
2:00 p.m. AOA Board meeting at Kalispell Senior Center  
2:00 p.m. Long Range Planning Task Force Sewer, Water & Stormwater Drainage Committee meeting at the  
Commissioners; Meeting Room  
4:00 p.m. Long Range Planning Task Force Meeting at the Earl Bennett Building (till 6)  
7:00 p.m. Fair Board meeting at the Fair Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 10, 2006.

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**FRIDAY, FEBRUARY 10, 2006**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioners Hall and Brenneman, 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 February 13, 2006.