

\*\*\*\*\*

## MONDAY, MAY 7, 2007

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

**8:00 a.m. Weed & Parks Board meeting @ Weed & Parks Office**  
**10:00 a.m. Commissioner Hall to RC&D meeting @ Memorial Building, Libby**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 8, 2007.

\*\*\*\*\*

## TUESDAY, MAY 8, 2007

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

### **Chairman Brenneman opened public comment on matters within the Commissions' Jurisdiction.**

George Darrow stated that he was one of the original members of the Bigfork Planning Group back in the early 90's that presented the plan to the county in March of 1992 that was adopted in 1993. That plan stated that toward commercial goals to accommodate further commercial development either within the Bigfork Village area or around existing commercial centers located at major intersections of arterial routes. Darrow then stated that the property that is being considered this morning is located near the intersections of two major routes, being Hwy 35 and Hwy 82. He then presented an updated copy of the Flathead County Zoning Regulations that was dated 1997, and in that book there is a planning category CCC -1 Commercial Country Corners applies to small scale commercial development at intersections of the county road and state highway as well as a CCC-2 Country Corner Commercial 2 that is at the intersection of two state highways in a rural area to provide limited community services of the surrounding rural area and traveling surfaces. He then stated that he does not have a copy of the map, but at that time the corner was designated CCC-2 and he then said that he has no idea how internal planning studies within the Planning Board that this property came to be designated B3. He then submitted that his understanding is that the old plan still exists until the new plan is adopted, unless there is eternal action or motions made and recorded somewhere in the Planning Department that overrides that.

Darrell Coverdell a member of BLUAC spoke in concern of the density of Park Lane Subdivision and stated that a parcel of the proposed subdivision will be approximately a little over five acres, but after it is developed commercially you are going to have over three acres of roof, roadway and parking spaces. Coverdell then stated that the lots are very small and then spoke of his concern with the drainage on the lots and the strip mall approach on Hwy 82 with several of the lots being on the highway. He then stated that the new Neighborhood Plan of Bigfork discourages that and they would like to see the property developed in a more coherent method with regards to the Neighborhood Plan. Coverdell also spoke about culverts and drainage in regards to the development and then stated that the proposal as presented should be denied.

Chairman Brenneman then stated that any information that comes to them regarding preliminary plats that comes to them after the Planning Board hearing is not taken into consideration in making a decision.

Pat Wagner the secretary for the Bigfork Steering Committee spoke about the Bigfork Land Use Advisory Board being very consciences in studying their preliminary plats when they come before the group. Wagner stated that they take the time to individually visit most of the sites and make good sound decisions and have passed just about everything that has come through Bigfork, although they do ask for conditions. She then said that Park Lane Subdivision was unanimously voted down by BLUAC, and as one of the Planning Boards members stated at a meeting; they should listen to some of these advisory boards and she asked that it be taken into consideration.

Johna Morrison with APEC stated that the Park Lane Subdivision has been master planned and zoned since 1993 in accordance with the Bigfork Master Plan. She then spoke about her concern with the comments that have been made in regards to zoning and questioned if there was a problem why it has not been changed in the last 14 years; that there certainly has been enough time to do that. It was then stated that the density is well within the standards with the lots being between 8,000 and 17,000 square feet and is zoned B3. Morrison then said that there is no new Neighborhood Plan on the property that they are still under the 1993 Bigfork Neighborhood Plan. Also stated was that the lot sizes are in conformance and that the drainage would be reviewed by DEQ.

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

### **BOARD APPOINTMENTS: FAIRVIEW CEMETERY AND BOARD OF ADJUSTMENT**

[9:10:03 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Diana Kile

Commissioner Lauman made a **motion** to appoint Keith Eckelberry to the Fairview Cemetery Board. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Commissioner Hall made a **motion** to appoint Craig Wagner to the Board of Adjustments. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

**DOCUMENTS FOR SIGNATURE: MONTANA MEDICAID PROVIDER ENROLLMENT AGREEMENT/ AOA AND SENIOR FARMERS MARKET NUTRITION PROGRAM / AOA**

[9:12:25 AM](#) & [9:25:27 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Diana Kile

Commissioner Lauman made a **motion** to approve the Montana Medicaid Provider agreement and authorized the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Commissioner Hall made a **motion** to approve the Senior Farmers Market program document and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: ENERGY PERFORMANCE CONTRACT/ COUNTY FACILITIES**

[9:14:03 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Vicki Saxby, Clerk Diana Kile

Pence stated that what they are asking from the commission is direction in regards to the Energy Performance Contract. It was then stated that the project total is now 1.8 million and to proceed they need solid direction from the commission in regards to asking Johnson Controls to move forward with the project; in which a more detailed analysis and design of the project needs to be done. Pence then said that they are going to recommend that they do this project with a payback over a 20 year period with annual savings of \$164,000 that will pay for the debit service and not require any new tax dollars to pay for the project. He then spoke about Johnson Controls paying the difference if the savings are not realized.

Commissioner Lauman stated that he was impressed with the potential savings over that period of time and spoke in favor of the concept and would like to move forward.

Commissioner Hall then stated that he was not in agreement yet and was not ready to make a decision until some questions are answered.

Pence then stated that he would prefer to postpone the decision until the questions are answered.

Commissioner Lauman made a **motion** to continue the Johnson Controls consideration. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: BUDGET PROJECT CONTRACT**

[9:26:08 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Diana Kile

Pence stated that this is a contract with Miral Gamrad. He then reviewed the work proposed, which is similar to the work done on the CIP. What this project will do is set-up a template that can be used from this time forward for a first class budget document. The total for the proposal is \$12,000.

Commissioner Hall questioned if this project could be done in-house and stated his concerns in regards to this not being done before.

Pence then stated that the county has gone without a CIP before, and that this project would have taken someone a large amount of time to complete.

Commissioner Lauman stated that he agreed with Commissioner Hall's concern in regards to having it done in-house, yet feels we should continue with Miral to complete it, and then continue in-house once it has been totally set-up.

Chairman Brenneman spoke in favor of the budget contract.

Commissioner Lauman made a **motion** to approve the budget service agreement. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

## PRELIMINARY PLAT: PARK LANE SUBDIVISION

[9:32:46 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Annie Thompson, Sue Hanson, Johna Morrison, Dan Henderson, George Darrow, Darrell Coverdell, Pat Wagner, Shelley Gonzales, Marc Lechti, Craig Wagner, Clerk Diana Kile

Thompson reviewed the application submitted by Golden Meadow Properties with technical assistance from APEC for preliminary plat approval of Park Lane Subdivision; a proposal to create a 15 lot commercial subdivision with lots ranging in size from 8,733 square feet to 17,259 square feet in size. This property is zoned B-3 Community Business and is designated as commercial in the Bigfork Area Land Use Plan.

Thompson also reviewed the Adoption of Findings of Fact and the Planning Boards reasons for denial. She then summarized the Findings of Fact as Amended.

Commissioner Lauman wanted clarified the sewer issue from the Bigfork Water Sewer District that states they will not give a "will serve letter" at this point in time, because the lines are not extended to that area.

Thompson then stated that basically the City County Health Department will not give them final approval unless they have a "will serve letter".

Commissioner Hall questioned the history of the zoning district in which Thompson stated that basically because of the existing uses at the time that there were certain areas that were planned based on whatever currently existed.

Commissioner Hall questioned the frontage road that was proposed and stated that we have to have frontage roads and that area in particular has to be connected to Coverdell. He then stated that Coverdell has to be the exit point off the subdivision and questioned why it wasn't drawn into Lot 15.

Thompson stated that the Planning Board recommended denial, so there aren't any conditions attached to the addendum; that the conditions stand as they are in the subdivision report.

Commissioner Hall then asked if they were to approve this if they would have to add the condition. Hall then stated the concerns of no buffering along the highway, no traffic analysis reports, entrance to the highway and strong opposition from the community of Bigfork.

Chairman Brenneman questioned if the findings needed to be changed.

Commissioner Hall made a **motion** to adopt Staff Report FPP 07-03 as findings of fact as amended by the Planning Board. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Chairman Brenneman stated that it appears that the findings they adopted could be used to support either way, therefore it is the commission's decision.

Chairman Brenneman stated that he agrees with Commissioner Hall's comments and doesn't feel it is an appropriate preliminary plat for the location and that findings of fact #2 are relevant to his consideration

Commissioner Hall then spoke about his concerns with traffic and stated that if any road should be used to access the highway, that it should be Coverdell Road. He then stated that he hopes when it comes back that there is some mitigation for the buffer area, bike path and highway access. Hall then said that he would not support the preliminary plat.

Commissioner Lauman stated that his comment would be on Lot 15 and questioned if the easement was continued, if it would render Lot 15 unbuildable.

Thompson then said that it most likely would; yet they could possibly shift the lots around.

Commissioner Lauman then stated that he agreed that the entrance onto the highway was a problem.

Commissioner Hall made a **motion** to deny preliminary plat of Park Lane Subdivision. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Chairman Brenneman then stated that the detailed concerns for a denial letter are public safety and welfare, non-compliant with Bigfork Area Land Use Plan and findings of fact #2.

## QUARTERLY JUVENILE DETENTION FACILITY TOUR

This tour was re-scheduled.

## BI-MONTHLY MEETING W/ KAROLE SOMMERFIELD, 4-H OFFICE

[10:08:46 AM](#)

Members present:

Chairman Joseph D. Brenneman  
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, 4-H Director Karole Sommerfield, Wesley Gwaltney, Clerk Diana Kile

Sommerfield introduced the new 4-H employee Wesley Gwaltney that started on May 1, 2007. Gwaltney then reported that he attended some training his first week and will be attending a meeting in Havre the following week. He then said that he will be helping Bob Stogard and the local farmers to try to do some scouting effort on their fields. Also stated is that he will be forming an advisory committee to steer his programming to insure that he meets the wants and needs of the community.

Sommerfield then reported on the 4-H military program that has received a good response and also on the Alabama 4-H staff that is spanning the State of Montana and visiting several counties. Also spoke about a grant for a robotic program, hog tag and portable scales at the Fairgrounds.

### **PRELIMINARY PLAT: GLACIER PINES SUBDIVISION**

10:20:38 AM

Members present:

Chairman Joseph D. Brenneman

Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, Planner Eric Giles, Eric Mulcahy, Clerk Diana Kile

Giles reviewed the application submitted by Carla Mangel with technical assistance from Sands Surveying for preliminary plat approval of Glacier Pines Subdivision; a subdivision that will create nine residential lots. The subject property consists of 94.436 acres with lot sizes proposed to be 10 acres to 11.53 acres that will be served by individual wells and septic systems. The property is located off Blankenship Road.

Giles also reviewed the Adoption of Findings of Fact and then staff recommendations to the adoption of the Subdivision Report.

Commissioner Lauman made a **motion** to adopt Staff Report FPP 07-04 as findings of fact as amended by the Planning Board. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

Discussion was then held in regards to conditions taken as Board action in which the commission approved or amended.

Condition 21 added: Access to all lots will be from the internal subdivision road.

Condition 15 (d) amended: The property owners association or road user's agreement will govern maintenance of the internal subdivision road and emergency access. The road will be maintained, including necessary repairs, snow removal and dust mitigation, to ensure safe all-weather travel for two way traffic and to reduce negative impacts on air quality.

Condition 3 amended: The applicant will pave the internal subdivision road and provide a 60 foot right-of-way. The emergency access will be a 40 foot right-of-way with a 20 foot gravel travel surface.

Condition 15 (G) added: Lots will not be further subdivided.

Condition 11 amended: Existing trees, ground cover and other vegetation will be retained in accordance with Section 3.2 FCSR, with the exception of creating defensible space and managing a healthy forest.

Commissioner Lauman made a **motion** to approve Glacier Pines Subdivision as amended. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

### **CONDITIONS**

1. The subdivider will receive physical addresses in accordance with Flathead County Resolution #1626. All addresses and roadway names will appear on the final plat. Street addressing will be assigned by the Address Coordinator [Section 3.9(I)(7), FCSR].
2. A road identification sign and stop sign will be installed at the intersection of the internal subdivision road and Blankenship Road [Section 3.9(I)(8), FCSR] All road signs will be metal with reflective letters. [Section 3.20(C), FCSR].
3. The applicant will pave the internal subdivision road and provide a 60' Right-of-Way. The emergency access will be a 40' Right-of-Way with a 20' gravel travel surface [Section 3.9(K)(3)(a)(1), FCSR].
4. The applicant will show proof of a completed paved road encroachment permit from the Flathead County Road Department for the internal subdivision road serving the lots, indicating the road has been built and received final inspection. [Section 3.8(A), FCSR]
5. Proof of an agreement between all parties utilizing the road easement for access will be required for final plat. A notarized copy of this agreement will be provided with the final plat application. [Section 3.9(J)(3), FCSR]
6. New electrical and telephone utilities will be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
7. The subdivider will comply with reasonable fire suppression and access requirements of the Coram/West Glacier Fire District. A letter from the fire chief stating requirements have been met will be submitted with the application for Final Plat. [Section 3.20 & Section 3.21, FCSR]
8. The stormwater drainage, individual water wells and individual septic treatment systems for the subdivision will be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 3.14(A) and 3.15(A), FCSR]
9. All erosion and sediment control devices will comply with the Montana Department of Environment Quality Sediment and Erosion Control Manual.

10. 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 and Section 3.12(J), FCSR]
11. Existing trees, ground cover, and other vegetation will be retained in accordance with Section 3.2, FCSR, with the exception of creating defensible space and managing a healthy forest.
12. A no-build zone will be recorded on the face of the final plat encompassing the areas with slopes in excess of 30% on Lots 4, 5, and 6.
13. The applicant will obtain a letter from the local postmaster, indicating the applicant has met the postal service's requirements for mail delivery in accordance with the Flathead County Subdivision Regulations. [Section 3.22, FCSR]
14. A 15-foot bicycle and pedestrian easement will be established on the property along Blankenship Road. [Section 3.18(A), FCSR]
15. The following statements will be placed on the face of the final plat applicable to all lots:
  - a. All addresses will be visible from the road, and at the driveway entrance or on the house.
  - b. All utilities will be placed underground.
  - c. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
  - d. The property owners association or road users' agreement will govern maintenance of the internal subdivision road and emergency access. The road will be maintained, including necessary repairs, snow removal, and dust mitigation, to ensure safe all-weather travel for two-way traffic and to reduce negative impacts on air quality
  - e. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
  - f. Lot owners are alerted to the presence of large and potentially dangerous wildlife in the area, including elk, bear, and mountain lion, and are reminded that feeding big game is illegal, as it not only has negative impacts on the animals themselves, it increases the presence of dangerous predatory animals. They are encouraged to contact the Montana Department of Fish, Wildlife, and Parks to obtain information on safely living near wildlife and minimizing habitat impact, including:

**TUESDAY, MAY 8, 2007  
(Continued)**

- I. Keeping dogs under owner control at all times.
- II. Using bear-proof garbage containers, stored inside garages or other secure facilities.
- III. Prohibiting wildlife attractants such as fruit trees or fruit shrubs, domesticated animals or livestock, beehives, compost piles, salt or mineral licks, bait or feed.
- IV. Removing obvious sources of food.
- V. Securing wildlife attractants such as pet food or barbeques indoors.
- VI. Limiting the use of or prohibiting bird feeders.
- VII. Limiting the type and height of property or perimeter fencing.

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

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

- g. Lots will not be further subdivided.
16. The applicant will contact the Superintendent of Schools, and if required install a school bus drop-off/pick-up areas at a location approved by the Superintendent of Schools. This location will be indicated on the face of the final plat.
  17. The applicant shall contact Montana Fish, Wildlife, and Parks and incorporate any concerns of the Department into the Conditions, Covenants and Restrictions. A copy of the signed and recorded Conditions, Covenants and Restrictions demonstrating the restrictions will be submitted for final plat approval.
  18. All required improvements will be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, will be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
  19. The final plat will be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
  20. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]
  21. Access to all lots will be from the internal subdivision road.

**MONTHLY MEETING W/ MARK PECK, OES**

This meeting was re-scheduled.

**CONSIDERATION OF PROCLAMATION: MENTAL HEALTH AWARENESS MONTH**

[11:02:22 AM](#)

Members present:

Chairman Joseph D. Brenneman  
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, Clerk Diana Kile

Commissioner Lauman made a **motion** to authorize the county to proclaim that May is Mental Health Awareness Month and authorized the Chairman to sign. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**BOARD APPOINTMENT: TAX APPEAL BOARD**

[11:03:16 AM](#)

Members present:

Chairman Joseph D. Brenneman  
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, Clerk Diana Kile

Commissioner Lauman made a **motion** to appoint Martha Noel to the Tax Appeal Board. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

TUESDAY, MAY 8, 2007  
(Continued)

**DOCUMENT FOR SIGNATURE: RSID #139, #140, #141 BOND RESOLUTION**

11:03:45 AM

Members present:

Chairman Joseph D. Brenneman  
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, County Attorney Jonathan Smith, Clerk Diana Kile

Commissioner Lauman made a **motion** to approve Bond Resolution #2048 for RSID #139, #140, #141. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE**

I, the undersigned, being the duly qualified and acting recording officer of Flathead County, Montana (the "County"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO \$508,000 POOLED RURAL SPECIAL IMPROVEMENT DISTRICT BONDS (RURAL SPECIAL IMPROVEMENT DISTRICT NOS. 139, 140, AND 141); AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE THEREOF" (the "Resolution"), on file in the original records of the County in my legal custody; that the Resolution was duly adopted by the Board of County Commissioners of the County at a meeting on May 8, 2007, and that the meeting was duly held by the Board of County Commissioners and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Commissioners voted in favor thereof: Joseph D. Brenneman  
and Dale W. Lauman; voted against the same: \_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_; or were absent: Gary D. Hall.

WITNESS my hand and seal officially this 8<sup>th</sup> day of May, 2007.

(SEAL)



Diana Kile

County Clerk and Recorder

RESOLUTION NO. 2048

RESOLUTION RELATING TO \$508,000 POOLED RURAL SPECIAL IMPROVEMENT DISTRICT BONDS (RURAL SPECIAL IMPROVEMENT DISTRICT NOS. 139, 140, AND 141); AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE THEREOF

BE IT RESOLVED by the Board of County Commissioners (the "Board") of Flathead County, Montana (the "County"), as follows:

Section 1. Recitals.

(a) This Board has duly and validly created and established in the County under Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), rural special improvement districts, designated as Rural Special Improvement District Nos. 139, 140, and 141 (the "Districts"), for the purpose of financing costs of certain public improvements of special benefit to the properties within the Districts (the "Improvements") and paying a portion of the costs incidental thereto, including costs associated with the sale and the security of rural special improvement district bonds of the County drawn on the Districts (the "Bonds"), the creation and administration of the Districts, the funding of a deposit to the County's Rural Special Improvement District Revolving Fund (the "Revolving Fund"), and funding a deposit to a reserve account securing the Bonds in the District Fund of Rural Special Improvement District No. 141 (the "RSID 141 Reserve Account"). The County will use \$22,575 of funds it has on hand and available therefor to pay a portion of the costs of issuance of the Bonds. The total estimated costs of the Improvements, including a portion of the incidental costs, to be financed by the Bonds are \$508,000, which costs are to be paid from the proceeds of the Bonds, and which are to be payable primarily from special assessments to be levied against property in the Districts, which property will be specially benefitted by the Improvements in an amount not less than \$508,000.

(b) It is necessary that the Bonds be issued and sold in an aggregate principal amount of \$508,000 to finance the costs of the Improvements within each of the Districts, including incidental costs, described in Subsection 1(a). The costs of the Improvements and costs incidental thereto are currently estimated, as follows:

	<u>District No. 139</u>	<u>District No. 140</u>	<u>District No. 141</u>
Construction	\$141,112	\$121,449	\$135,577
Engineering	15,000	15,500	19,000
County Administration	7,138	5,644	6,676
Revolving Fund Deposit	7,138	7,636	9,032
RSID 141 Reserve Account	0	0	7,854
Debt Service	55	48	56
Costs of Issuance, including Underwriter's Discount	10,952	9,558	11,150
Total	<u>\$181,395.00</u>	<u>\$159,835.00</u>	<u>\$189,345.00</u>

Section 7-12-2171(2), M.C.A., requires that rural special improvement district bonds be issued in a denomination of \$100. Accordingly, the Board has determined it is in the best interests of the County to issue the Bonds in the total principal amount of \$508,000 to satisfy Section 7-12-2171(2), M.C.A., and to make the Bonds more attractive to prospective bidders. As such, the County will add a rounding amount of \$159 to the principal amount of the Bonds so they total \$508,000 and the County will deposit \$159 in total in the District Funds of the Districts to pay debt service on the Bonds, with the effect that no owner of property in the Districts will be assessed an amount in excess of the assessments contemplated when creating the Districts. Costs in excess of the proceeds of the Bonds will be paid from funds the County has on hand and available therefor in the amount of \$22,575.00.

(c) The County is authorized pursuant to Montana Code Annotated, Section 7-12-2192, to issue and sell rural special improvement district bonds of more than one district in a single offering on a pooled basis upon a determination that such pooling is in the best interests of the Districts and the County.

(d) The County is further authorized by Montana Code Annotated, Section 7-12-2172(1) to sell the Bonds at a price less than the principal amount thereof, but including interest thereon to the date of delivery, if this Board determines that such sale is in the best interests of the Districts and the County.

Section 2. Determinations of Public Interest in Allowing Bond Discount and Permitting Pooling of Bonds. Pursuant to the authority described in Section 1, this Board hereby determines that the issuance and sale of the Bonds in a pooled single offering for the following Rural Special Improvement Districts in the respective principal amounts set forth below:

<u>District No.</u>	<u>Principal Amount</u>
139	\$174,528
140	\$152,777
141	\$180,695
TOTAL	\$508,000

is in the best interest of each of the Districts and the County and will facilitate the sale of the Bonds because the size of the issue will attract more interest in the marketplace and thus help to lower interest rates on the Bonds and because a single issue will reduce the costs of issuance. This Board further determines to fix the minimum price for the Bonds at \$497,840.00 (98% of par), plus interest accrued thereon to the date of delivery. Such minimum bid will enable bidders to bid more efficiently for the Bonds by permitting them to submit their bids based on actual market conditions without adjusting the interest rates thereon to provide compensation for their purchase of the Bonds.

Section 3. Findings and Determination To Pledge the Revolving Fund. In the Resolutions of Intention to Create Rural Special Improvement District Nos. 139, 140, and 141, adopted on August 16, 2006, this Board found it to be in the public interest, and in the best interest of the County and the Districts, to secure payment of principal of and interest on the Bonds by the Revolving Fund and authorized the County to enter into the undertakings and agreements authorized in the Act in respect of the Bonds, based on the factors required to be considered under Section 7-12-2185 of the Act. Those findings and determinations were ratified and confirmed in the Resolutions Creating Rural Special Improvement District Nos. 139, 140, and 141, adopted by this Board on September 20, 2006, and are hereby ratified and confirmed. It is hereby covenanted and recited that the County has the power under the Act to pledge the Revolving Fund to payment of the principal of and interest on the Bonds.

Section 4. Terms of the Bonds. This Board hereby authorizes the issuance and sale of Pooled Rural Special Improvement District Bonds, Series 2007 (Rural Special Improvement District Nos. 139, 140, and 141) of the County in the aggregate principal amount of \$508,000 (the "Bonds") for the purpose of financing the Improvements and a portion of the costs incidental thereto. The Bonds shall be dated, as originally issued, as of June 15, 2007, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2008, at a rate or rates designated by the successful bidder at public sale and approved by this Board. If issued as serial bonds, the Bonds shall mature on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2008	\$23,000	2018	\$40,000
2009	25,000	2019	40,000
2010	25,000	2020	40,000
2011	25,000	2021	40,000
2012	25,000	2022	40,000
2013	25,000	2023	10,000
2014	25,000	2024	10,000
2015	25,000	2025	10,000
2016	25,000	2026	10,000
2017	35,000	2027	10,000

Bidders will have the option of combining the Bonds maturing on and after 2008 through and including 2012 and on and after 2013 through and including 2027 into one or more term bonds. If any Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amount set forth in the foregoing schedule

on each July 1, concluding no later than 2027, at a redemption price equal to the principal amount of such Bonds or portions thereof to be redeemed with interest accrued thereon and payable on January 1 and July 1 to the redemption date, in installments and in the same amounts and on the same dates as the Bonds would have matured if they were not included in a term bond.

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Chair of the Board of County Commissioners, the County Treasurer, and the County Clerk and Recorder. The Bonds shall be secured by the Revolving Fund and the RSID 141 Reserve Account.

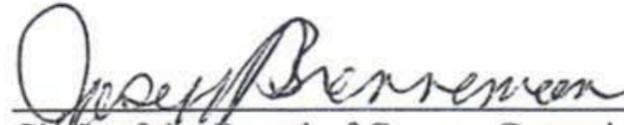
Section 5. Public Sale. The Bonds shall be sold at a public competitive sale, the sealed bids for which shall be submitted to the County Attorney or bids for the purchase of the Bonds shall be received by the County by electronic transmission through Parity™, in either case until 11:00 a.m., MT, on Tuesday, June 5, 2007, at which time bids will be opened and tabulated by the County Attorney. The tabulation of bids will be presented to the County Commissioners at a meeting immediately thereafter. This Board will consider the bids and, if a responsive and acceptable bid is received, award the sale of the Bonds. Award of sale will be made to the bidder with the lowest true interest cost ("TIC") by the Board. The County will receive sealed bids or bids transmitted electronically through Parity™ for the Bonds and the Bonds will be sold in accordance with the Official Terms and Conditions attached hereto as Exhibit A (which is hereby incorporated and made a part hereof). The County Clerk and Recorder is authorized and directed to cause notice of the sale to be published, as required by Montana Code Annotated, Sections 7-12-2172, 7-7-4252 and 17-5-106, in the *Daily Inter Lake* once each week for two successive weeks preceding the week which contains the date of sale. The notice of sale shall be published in substantially the form set forth as Exhibit B to this resolution and this Board hereby adopts the terms and conditions set forth in such notice of sale as the terms and conditions of the sale of the Bonds.

Section 6. Continuing Disclosure. Although bidders and other participating underwriters in the primary offering of the Bonds need not comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule"), because the aggregate principal amount of the Bonds and any other securities required to be integrated with the Bonds is less than \$1,000,000, to enhance the marketability of the Bonds, the County will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the Bonds, to provide annual reports of specified information and notice of the occurrence of certain events, if material. The County and the Revolving Fund are the only "obligated persons" in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the County to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds.

Section 7. Official Statement. The County Clerk and Recorder and other officers of the County, in cooperation with D.A. Davidson & Co., of Great Falls, Montana, financial consultants to the County, are hereby authorized and directed to prepare on behalf of the County an official statement to be distributed to potential purchasers of the Bonds. Such official

statement shall contain the terms and conditions of sale set forth in the notice of sale referred to in Section 5 and such other information as shall be advisable and necessary to describe accurately the County and the security for, and terms and conditions of, the Bonds. The County Clerk and Recorder is authorized on behalf of the County to deem the official statement near "final" as of its date, in accordance with Rule 15c2-12(b)(1) under the Securities Exchange Act of 1934.

PASSED AND ADOPTED by the Board of County Commissioners of the Flathead County, Montana, this 8th day of May, 2007.

  
Chair of the Board of County Commissioners

Attest:

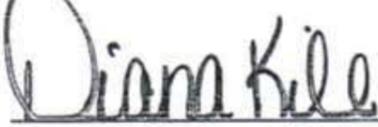
  
County Clerk and Recorder



EXHIBIT A

TERMS AND CONDITIONS

\$508,000 Pooled Rural Special Improvement District Bonds  
(Rural Special Improvement District Nos. 139, 140, and 141)

FLATHEAD COUNTY, MONTANA

NOTICE IS HEREBY GIVEN that Flathead County, Montana (the "County"), will sell to the lowest and best bidder for cash, as evidenced by sealed bids or bids transmitted electronically through Parity™, the above-described Bonds (the "Bonds") drawn against the funds of the following Rural Special Improvement Districts in the respective principal amounts set forth below:

<u>District No.</u>	<u>Principal Amount</u>
139	\$174,528
140	\$152,777
141	<u>\$180,695</u>
TOTAL	\$508,000

Bids for the purchase of the Bonds may be submitted as written sealed bids or by electronic transmission through Parity™. Bids for the purchase of the Bonds will be received until 11:00 a.m., M.T., on Tuesday, June 5, 2007, in the Flathead County Courthouse, 800 S. Main Street, Kalispell, Montana, at which time the bids will be opened or accessed and tabulated. The Board of County Commissioners of the County will meet immediately thereafter in the Courthouse to consider the bids and to award the sale of the Bonds.

Purpose and Security

The Bonds will be issued for the purpose of financing the cost of construction of certain local improvements (the "Improvements") within or for the benefit of Rural Special Improvement District Nos. 139, 140, and 141 (collectively, the "Districts") and paying a portion of the costs incidental thereto, in accordance with the provisions of Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended. The Bonds will be special, limited obligations of the County and do not constitute general obligations of the County.

The Bonds are payable primarily from the collection of a special tax or assessment which is a lien against the assessable real property within the respective Districts benefitted by the Improvements to be undertaken therein or therefor. The special assessments are payable in substantially equal, semiannual installments of principal and interest over a 20-year term in respect of Rural Special Improvement District No. 140 and over a 15-year term in respect of Rural Special Improvement District Nos. 139 and 141, with unpaid installments of the special assessments bearing interest at a rate equal, from time to time, to the sum of (i) the average rate of interest borne by the then outstanding Bonds, plus (ii) one-half of one percent (0.50%) per annum.

The County will establish in the District Fund of Rural Special Improvement District No. 141, and fund with \$7,854 from proceeds of the Bonds, a District Reserve Account (the "RSID

141 Reserve Account”), from which moneys are to be applied to pay principal of and interest on the Bonds in the event collections of special assessments in Rural Special Improvement District No. 141 are insufficient therefor. The County has no obligation to replenish the RSID 141 Reserve Account if funds are withdrawn therefrom. The County has not established a reserve account for either of Rural Special Improvement District No. 139 or Rural Special Improvement District No. 140, and the RSID 141 Reserve Account will be available only to pay delinquencies in assessments applicable to Rural Special Improvement District No. 141.

The Bonds are further secured by the Rural Special Improvement District Revolving Fund of the County (the “Revolving Fund”). The County will agree to make a loan from the Revolving Fund to the sinking fund established for the Districts to make good any deficiency then existing in the principal and interest subaccounts therein and to provide funds for the Revolving Fund by levying a tax or making a loan from the County’s general fund to the extent authorized by law, and if necessary to reduce other property tax levies to meet any applicable levy limits.

Date and Type

The Bonds will be dated, as originally issued, as of June 15, 2007, and will be issued as negotiable investment securities in registered form as to both principal and interest.

Maturities and Redemption

If issued as serial bonds, the Bonds shall mature, subject to redemption, on July 1 in the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2008	\$23,000	2018	\$40,000
2009	25,000	2019	40,000
2010	25,000	2020	40,000
2011	25,000	2021	40,000
2012	25,000	2022	40,000
2013	25,000	2023	10,000
2014	25,000	2024	10,000
2015	25,000	2025	10,000
2016	25,000	2026	10,000
2017	35,000	2027	10,000

Bidders will have the option of combining the Bonds maturing on and after 2008 through and including 2012 and on and after 2013 through and including 2027 into one or more term bonds. If any Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amount set forth in the foregoing schedule on each July 1, concluding no later than 2027, at a redemption price equal to the principal amount of such Bonds or portions thereof to be redeemed with interest accrued thereon and payable on January 1 and July 1 to the redemption date, in installments and in the same amounts and on the same dates as the Bonds would have matured if they were not included in a term bond.

Mandatory Redemption. If on any interest payment date there will be a balance in the sinking fund constituting the aggregation of the district funds for each district (the "Sinking Fund") after payment of the principal and interest due on all Bonds drawn against it, either from the prepayment of special assessments levied in the Districts or from the transfer of surplus money from the Construction Account to the Principal Account, outstanding Bonds, or portions thereof, in an amount which, together with the interest thereon to the interest payment date, will equal the amount of such funds on deposit in the Sinking Fund on that date are subject to mandatory redemption on that interest payment date. The redemption price shall equal the amount of the principal amount of the Bonds to be redeemed plus interest accrued to the date of redemption.

Optional Redemption. The Bonds maturing on and after July 1, 2013 are subject to redemption, in whole or in part, at the option of the County from sources of funds available therefor other than those described under "Mandatory Redemption" on July 1, 2012 and any date thereafter from the proceeds of refunding rural special improvement district bonds or warrants. The redemption price shall equal the principal amount of the Bonds to be redeemed plus interest accrued to the date of redemption, without premium.

Selection of Bonds for Redemption. If less than all of the Bonds are to be redeemed Bonds shall be redeemed in order of the stated maturities thereof. If less than all Bonds of a stated maturity are to be redeemed, the Bonds of such maturity shall be selected for redemption in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair.

#### Interest Payment Dates, Rates

Interest will be payable each January 1 and July 1, commencing January 1, 2008, to the registered owners of the Bonds as such appear in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month. All Bonds of the same stated maturity must bear interest from date of original issue until paid at a single, uniform rate. No interest rate may exceed five and seventy-five hundredths percent (5.75%) per annum, and the difference between the highest and lowest rates of interest may not exceed one and seventy-five hundredths percent (1.75%) per annum. Each rate must be expressed in an integral multiple of 1/8 of 1/20 of 1%. No supplemental or "B" coupons or additional interest certificates will be permitted.

#### Bond Registrar, Transfer Agent and Paying Agent

The County shall select a bond registrar, transfer agent and paying agent (the "Registrar") in connection with the Bonds. The bond register will be kept, transfers of ownership will be effected and principal of and interest on the Bonds will be paid by the Registrar. The County will pay the charges of the Registrar for such services. The County reserves the right to remove the Registrar and to appoint a successor.

#### Delivery

Within 40 days after the sale, the County will deliver to the Registrar the printed Bonds ready for completion and authentication. The original purchaser of the Bonds must notify the Registrar, at least five business days before issuance of the Bonds, of the persons in whose names the

Bonds will be initially registered and the authorized denominations of the Bonds to be originally issued. If notification is not received by that date, the Bonds will be registered in the name of the original purchaser and, if serial bonds, will be issued in denominations corresponding to the principal maturities of the Bonds. On the day of closing, the County will furnish to the purchaser the opinion of bond counsel hereinafter described, an arbitrage certification and a certificate verifying that no litigation in any manner questioning the validity of the Bonds is then pending or, to the knowledge of officers of the County, threatened. Payment for the Bonds must be received by the County in immediately available funds at its designated depository on the day of closing. As a condition of delivery, the purchaser must certify to the County in writing the initial reoffering prices of the Bonds.

#### Qualified Tax-Exempt Obligations

The Bonds will be designated by the County as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and financial institutions described in Section 265(b)(5) of the Code may treat the Bonds for purposes of Sections 265(b)(2) and 291(e)(1)(B) of the Code as if they were acquired on August 7, 1986.

#### Legal Opinion

An opinion as to the validity of the Bonds and the exclusion from gross income for federal income tax purposes and Montana individual income tax purposes of the interest thereon will be furnished by Dorsey & Whitney LLP, of Missoula, Montana, and Minneapolis, Minnesota, as Bond Counsel. The legal opinion will be printed on the Bonds. The legal opinion will state that the Bonds are valid and binding special obligations of the County enforceable in accordance with their terms, except to the extent to which enforceability thereof may be limited by the exercise of judicial discretion or by state or federal laws relating to bankruptcy, reorganization, moratorium or creditors' rights.

#### Type of Bid and Good Faith Deposit

Bids transmitted electronically through Parity™ or sealed bids for not less than \$497,840.00 (98% of par) and accrued interest on the principal sum of \$508,000 must be received at the office of the County Attorney prior to the time stated above. Bidders must bid for all or none of the Bonds. Bids may be transmitted electronically through Parity™ in accordance with these terms and conditions. Each bid must be unconditional.

Except for a bid by or on behalf of the Board of Investments of the State of Montana, a good faith deposit (the "Deposit") in the form of money, cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state chartered bank insured by the federal deposit insurance corporation or a financial surety bond in the sum of \$10,160 payable to the order of the County is required for a bid to be considered. If money, cashier's check, certified check, bank money order, or bank draft is used, it must accompany the bid and be delivered to the County Clerk and Recorder. If a financial surety bond is used, it must be from an insurance company licensed and qualified to issue such a bond in the State of Montana and such bond must be submitted to the County Clerk and Recorder prior to the opening of the bids. The financial surety bond must identify each bidder whose Deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit its Deposit to the County in the form of a cashier's check (or wire transfer such amount as instructed by

the County) not later than 1:00 p.m., M.T., on the next business day following the award. If such Deposit is not received by that time, the financial surety bond may be drawn by the County to satisfy the Deposit requirement. No interest on the Deposit will accrue to the purchaser. The Deposit will be applied to the purchase price of the Bonds. In the event the purchaser fails to honor its accepted bid, the Deposit will be retained by the County as liquidated damages. The Deposit of the unsuccessful bidders will be returned immediately on award of the Bonds to the purchaser or after rejection of all bids. Instructions for wiring a Deposit may be obtained from the County's Financial Advisor, D.A. Davidson & Co., 8 Third Street North, Great Falls, Montana 59401, (406) 791-7210.

#### Award

Bids will be compared on the basis of true interest cost (TIC) and awarded to the responsive bidder whose bid reflects the lowest TIC. The TIC is the net present value of total interest on all Bonds from dated date to their maturities, less any premium or plus any discount. In the event that two or more bids state the lowest true interest cost, the sale of the Bonds will be awarded by lot. The Board will consider sealed bids or bids transmitted electronically through the Parity™ system. No oral bid will be considered. The County reserves the rights to reject any and all bids, to waive informalities in any bid and to adjourn the sale.

To the extent any instructions or directions set forth in Parity™ conflict with these Terms and Conditions of Sale, the terms of these Terms and Conditions of Sale shall control. For further information about Parity™, potential bidders may contact the Financial Advisor, D.A. Davidson & Co. at (406) 791-7210 (Aaron Rudio), or Parity™ at (212) 849-5021. In the event of a malfunction in the electronic bidding process, bidders may submit their bids by sealed bid including facsimile transmission to the County Attorney, at facsimile number (406) 758-5642 (phone (406) 758-5630) ) or to D.A. Davidson & Co. (Financial Advisor) at (406) 791-7315.

#### Official Statement

The County will prepare an Official Statement relating to the Bonds which the County will deem, for purposes of SEC Rule 15c2-12, to be final as of its date. The County will deliver, at closing, a certificate executed by the Chair of the Board of County Commissioners and County Clerk and Recorder to the effect that, to the best of their knowledge, as of the date of closing, the information contained in the Official Statement, including any supplement thereto, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading; provided that no comment will be made with respect to any information provided by the successful bidder for inclusion in any supplement to the Official Statement.

By submitting a bid for the Bonds, the successful bidder agrees: (1) to disseminate to all members of the underwriting syndicate copies of the Official Statement, including any supplements prepared by the County, (2) to file promptly a copy of the Official Statement, including any supplement prepared by the County, with a nationally recognized municipal securities repository, and (3) to take any and all other actions necessary to comply with applicable rules of the Securities and Exchange Commission and the Municipal Securities Rulemaking Board governing the offering, sale and delivery of the Bonds to ultimate purchasers.

Within seven business days after the sale the County will furnish to the successful bidder without charge up to 100 copies of the final Official Statement relating to the Bonds. The

successful bidder must notify the County Clerk and Recorder in writing within five business days after the award of sale of the Bonds if it requires additional copies of the Official Statement. The cost of additional copies shall be paid by the successful bidder.

Continuing Disclosure

Although bidders and other participating underwriters in the primary offering of the Bonds need not comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule"), because the aggregate principal amount of the Bonds and any other securities required to be integrated with the Bonds is less than \$1,000,000, to enhance the marketability of the Bonds, the County will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the Bonds, to provide annual reports of specified information and notice of the occurrence of certain events, if material. The County and the Revolving Fund are the only "obligated persons" in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the County to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds.

CUSIP Numbers

The County will pay the costs of printing the Bonds, the fees and charges of Bond Counsel and the Registrar. The County will apply for CUSIP numbers but will assume no cost or obligation for the printing of CUSIP numbers on the Series 2007 Bonds or for the correctness of any numbers printed thereon.



BY ORDER OF THE BOARD OF COUNTY  
COMMISSIONERS

*Diana Kille*

County Clerk and Recorder  
Flathead County, Montana

EXHIBIT B

NOTICE OF BOND SALE

\$508,000 Pooled Rural Special Improvement District Bonds  
(Rural Special Improvement District Nos. 139, 140, and 141)

FLATHEAD COUNTY, MONTANA

NOTICE IS HEREBY GIVEN that the Board of County Commissioners (the "Board") of Flathead County, Montana (the "County"), will receive sealed bids for the purchase of \$508,000 Pooled Rural Special Improvement District Bonds (Rural Special Improvement District Nos. 139, 140, and 141) (the "Bonds") in the Flathead County Courthouse, 800 S. Main Street, Kalispell, Montana, or bids for the purchase of the Bonds will be received by the County by electronic transmission through Parity™, in either case until 11:00 a.m., M.T., on Tuesday, June 5, 2007, at which time the bids will be opened or accessed and tabulated. The bids will be presented to the Board at its regular meeting immediately thereafter on the same day, at which time the Board will consider the bids received, and if a responsive and acceptable bid is received, the Board will award sale of the Bonds to the responsive bidder whose bid reflects the lowest true interest cost (TIC).

The Bonds will be issued for the purpose of financing the cost of construction of certain local improvements (the "Improvements") within or for the benefit of Rural Special Improvement District Nos. 139, 140, and 141 (collectively, the "Districts"); and paying a portion of the costs associated with the sale and issuance of the Bonds. The Bonds shall mature, subject to redemption, on July 1 in the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2008	\$23,000	2018	\$40,000
2009	25,000	2019	40,000
2010	25,000	2020	40,000
2011	25,000	2021	40,000
2012	25,000	2022	40,000
2013	25,000	2023	10,000
2014	25,000	2024	10,000
2015	25,000	2025	10,000
2016	25,000	2026	10,000
2017	35,000	2027	10,000

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Board Chair, the County Treasurer, and the County Clerk and Recorder. The Bonds shall be secured by the County's Rural Special Improvement District Revolving Fund (the "Revolving Fund"), and a deposit to a reserve account in the District Fund of only Rural Special Improvement District No. 141. There is no reserve account securing the Bonds for Rural Special Improvement District Nos. 139 and 140.

Serial bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities. Bidders will have the option of combining the Bonds maturing on and after 2008 through and including 2012 and on and after 2013 through and including 2027 into one or more term bonds. If any Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption on each July 1, concluding no later than 2027, at a redemption price equal to the principal amount of such Bonds or portions thereof to be redeemed with interest accrued thereon and payable on January 1 and July 1 to the redemption date, in installments and in the same amounts and on the same dates as the bonds would have matured if they were not included in a term bond.

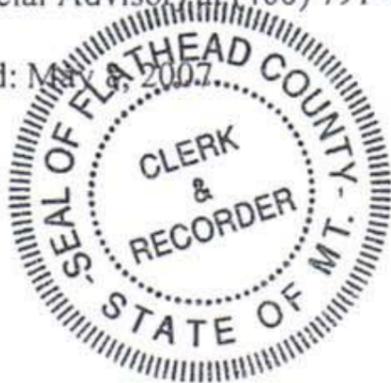
The Bonds shall be dated, as originally issued, as of June 15, 2007, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2008, at a rate or rates designated by the successful bidder at public sale and approved by this Board. No interest rate may exceed 5.75% per annum, and the difference between the highest and lowest rate of interest may not exceed 1.75% per annum. No supplemental or "B" coupons or additional interest certificates are permitted and rates shall be expressed in integral multiples of 1/8 or 1/20 of one percent per annum. The Bonds with stated maturities on or after July 1, 2013 will be subject to redemption on July 1, 2012, and any date thereafter, at the option of the County, in whole or in part, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date, without premium. The Bonds are also subject to mandatory redemption on an interest payment date if the amounts in the Sinking Fund, either from prepayment of assessments or transfers from the Construction Account to the Principal Account, are sufficient to pay outstanding Bonds, or portions thereof, with interest thereon to that interest payment date.

The Bonds will be sold for not less than \$497,840.00 (98% of par) with accrued interest on the principal amount of the Bonds to the date of their delivery. The Board reserves the right to reject any and all bids, to waive any informality in any bid, and to adjourn the sale.

A good faith deposit in the form of money, cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state chartered bank insured by the Federal Deposit Insurance Corporation or a financial surety bond in the sum of 2% of the aggregate principal amount of the Bonds (\$10,160) payable to the order of the County is required for each bid to be considered, as further specified in the Official Terms and Conditions of Sale.

Copies of the Official Terms and Conditions of Sale and additional information may be obtained from the County's Financial Advisor, D.A. Davidson & Co., 8 Third Street North, Great Falls, Montana 59401, (406) 791-7210. Prospective bidders should consult the Official Terms and Conditions of Sale and the Preliminary Official Statement for a detailed description of the Bonds, the security therefor, and the form of legal opinion proposed to be rendered by Dorsey & Whitney LLP, of Missoula, Montana, and Minneapolis, Minnesota, as bond counsel. To the extent any instructions or directions set forth in Parity™ conflict with this Notice of Bond Sale, the terms of this Notice of Bond Sale shall control. For further information about Parity™, potential bidders may contact the Financial Advisor, D.A. Davidson & Co. at (406) 791-7210 (Aaron Rudio), or Parity™ at (212) 849-5021. In the event of a malfunction in the electronic bidding process, bidders may submit their bids by sealed bid including facsimile transmission to the County Attorney, at facsimile number (406) 758-5642 (phone (406) 758-5630) or to D.A. Davidson & Co. (Financial Advisor) at (406) 791-7315.

Dated: May 2, 2007



BY ORDER OF THE BOARD OF COUNTY  
COMMISSIONERS

*Diana Kille*

County Clerk and Recorder  
Flathead County, Montana

Publication Dates: May 22, 2007  
May 29, 2007

10:30 a.m. Commissioner Hall to Panel @ Western Forestry Leadership Coalition @ Grouse Mtn. Lodge  
11:30 a.m. Brown Bag Luncheon w/ County Planning Board @ Commissioners Meeting Room  
1:15 p.m. 911 meeting @ Justice Center

\*\*\*\*\*

## WEDNESDAY, MAY 9, 2007

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

### 11:00 a.m. County Attorney meeting @ Co. Atty's Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 10, 2007.

\*\*\*\*\*

## THURSDAY, MAY 10, 2007

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

### Chairman Brenneman opened public comment on matters within the Commissions' Jurisdiction.

Richard Hoffman a resident of 270 Squirrel Lane in Whitefish spoke in regards to a situation with contractors using a gravel access road that was deemed an emergency access only by the developer. Hoffman stated that he called DEQ and talked to Jared who informed him that he has no ability to help with the situation. He has also called JTL and complained to them and they have since done a little bit of watering on the road. The situation goes back about 10 years ago when Whitefish Hills Subdivision was proposed and they adamantly told the Commissioners, City of Whitefish and the City County Planning Board that the southern access, which is Stelle Lane was going to be an emergency access only for the subdivision and it was going to be the ingress and egress for those who built and maintain the road. Hoffman then said the problem right now is that Whitefish Hills is doing a whole new phase of the subdivision; with an extensive roadway system and are running JTL belly dumps and towing heavy equipment. The Whitefish Hills homeowners are using it extensively also to save driving. It was then stated that he has no problem with the subdivision; the issue is that they have lied and misrepresented exactly what they were going to be doing, because they didn't want to have to put the money up to pave the road, so they said it would be an emergency access only. The time has come, now that they have started phase three to have them pave the access road because of the fact that access road to subdivisions are suppose to be paved. It is now not an emergency access, it is the primary access for all the heavy trucks, contractors and subcontractors. Hoffman said that if they wanted to use it as an access that they would not mind, the problem is they need to mitigate the dust by paving the road and create better sight lines in the road.

Commissioner Hall stated that they would have the planning office pull the file and check on conditions.

Pam Holmquist reported on the board meeting and said that they are in discussions with the city in regards to capacity support to serve the Anders Phase II. Once they meet with Jim Patrick with the city, they will discuss possibly amending the original interlocal agreement or a new interlocal agreement. Whatever happens there will affect 100,000 gallons that they have already committed to the three projects, with the 100,000 gallons not being enough for phase two on Kelsey. Holmquist then spoke on the Patrick Theory that has come up is that the district would be simply an advance system for the city; what would happen is that all of the Phase II customers would be customers of the city, with the city billing them. As soon as it goes into their lines and into their system they would bill the city for conveyance; with this still being in discussion. Also stated was that their conveyance fee would have built into it a repair maintenance fee for anything that might happen in the subdivision. The biggest concern as a board is whatever agreement that they get into; they don't want it to have any negative effect or any effect at all on the feasibility study. Holmquist then asked the commission how they felt in regards to supporting the district.

Commissioner Hall stated that if a letter was written that it would be his desire that Kalispell and Evergreen work together towards a partnership in another plant. He then spoke in support of the work Evergreen Water and Sewer is doing.

Commissioner Lauman stated that he feels basically the same.

### 10:01:30 AM

Doug Barth the president of the homeowners association on Badrock Drive said that he has obtained 35 out of 37 signatures for an RSID. He then said that when they started out the project was going to be \$110,000.00 and after asking the engineer if the condition of the road was ready for asphalt, they were told afterwards that the county requires three inches of rock at the cost of another \$80,000.00, so the project has now turned in \$423,000.00 with the extra expenses, interest and administrative fees. He then stated that he had an extremely motivated neighborhood, but not at \$423,000.00. What he is asking is that they would like the assessment method acknowledged, in that it needs to be updated. Right now the assessment method is either by area, which would not be feasible at all, with the elderly that have large parcels of land that would pay upward toward \$3,000.00 to \$4,000.00 per year. If they were to do it individually they would have some on limited income that have three or four tracts and they would pay three to four times what everybody else is paying per year, therefore inviting protest. What he is asking is that they would like a mechanism to be charged per individual and re-assessed each year, so that when the 40 acre piece is sold or subdivided, it would be re-assessed and the new owners would pay for the improvements and that would then lower everyone else's each year.

Pence stated that the problem with that is basically that it would be a form of a late comer's fee and with state laws there would be a problem.

Barth then asked if the county could help with the RSID if they came up with \$200,000.00 to \$300,000.00 and asked if the county could meet them part way. Also discussed was the concern with utilities and culverts.

Hall then stated that they would work with the Road Department and Mike Pence.

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

**MEETING W/ JIM ATKINSON, AOA RE: GATEWAY WEST MALL BLDG.**

[9:07:12 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, AOA Director Jim Atkinson, Weed & Parks Director Jed Fisher, Clerk Diana Kile

Atkinson reported that as he understands it, there is a buyer for the mall who is interested in working with United Way, to donate over a ten year period the entire mall, except what is owned by the City to United Way for a Human Services Campus. Atkinson stated that he would like permission from the commission to send a letter of intent to Gateway West Mall. Also discussed was maintenance on the mall.

Chairman Brenneman questioned Atkinson in regards to Stillwater Christian School.

**CONTINUATION OF PUBLIC HEARING: ROAD ABANDONMENT #461 (HOLT DR)**

[9:18:30 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

County Attorney Peter Steele, Road Department Guy Foy, Clerk Diana Kile

Steele reviewed Road Abandonment #461 in which the Johnson's and H & H Development have given the county an easement to correct a right-of-way problem. It was then stated that what the county is doing, is fixing this so that the paved road that exists will be on the counties right-of-way. H & H Development and Marjorie Johnson have both given a Quit Claim Deed to the county for the property.

**Commissioner Hall PT opened the Public Hearing to anyone wishing to speak in favor or opposition of Road Abandonment # 461.**

**No one rising to speak, Commissioner Hall PT closed the Public Hearing.**

Commissioner Lauman made a **motion** to approve Road Abandonment #461 on Holt Drive. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

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

[9:32:36 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Debbie Shoemaker, Clerk Diana Kile

Discussion was held relative to Whitefish Hills and the emergency access road that is being used by contractors with dust being a problem.

Harris then reported that they received 16 applications for Planners with half of them being qualified; interviews were conducted last week and they have made offers to two applicants and are still trying to get a hold of the third applicant in order to offer the position. The two individuals that have been offered the positions have not accepted yet, but have until Friday to do so. Their goal is to be able to start them the first of June and to also train them at the same time. Harris also reported on contracting out on a short term basis Floodplain Permits, in which he asked the commission for approval until Kirsten Holland can be transitioned into the position. It was stated that the County Attorney's office will be contacted to draw up a contract for a position of helping with Floodplain Permits. Also discussed was a meeting with MDOT in regards to a light on Hwy 93.

**PRELIMINARY PLAT: BEAVER CREEK CO-OP NO. 1**

[10:09:05 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Assistant Planning & Zoning Director B J Grieve, Debbie Shoemaker, Tom Courtney, Bob Hanger, Bob Fraser, Rich DeJana, Todd Jochim, Mark Spratt, Vicki Gallo, Clerk Diana Kile

Grieve reviewed the application submitted by Beaver Creek Housing Cooperative, Inc. with technical assistance from F & H Surveying for preliminary plat approval of Beaver Creek Co-op No. 1; a minor subdivision that will create two single family lots on 23.823 acres located at 350 Hawks Lake Lane off Talley Lake Road.

Tom Courtney representing Beaver Creek Housing Cooperative reviewed the ownership of the co-op property and the circumstances that have lead to the application. It was stated that the Co-op was formed approximately 10 years ago by the originator as a means to preserve the natural environment, protect the abundant wildlife, maintain open space and control development of the land. A step that the co-op took was to place approximately 52 acres of the property into a conservation easement. This co-op consists of seven memberships and through their by-laws; each member has a right to build a single family home in designated locations on the co-op property. Over the years the memberships have changed hands and at present four have built or started construction on their homes with three lots remaining. The initial purchases of co-op memberships were financed by the originator for some, some of them have been paid off, and some still having outstanding balances. The originator provided construction financing for first homes with the property being pledged as security for the purchase money notes for the members who have built with the originator. The co-op borrows the money and then lends it to the members; current situation being the originator is no longer involved or in a position to finance construction for the remaining members who are yet to build, and these members are finding it impossible to secure construction financing due to the current structure of the existing mortgages that have creating a lien on the whole property. Additionally the provisions of the co-op by-laws provide in the event of dissolution of the Co-op, that all the protected covenants will remain in place and the title to the property would revert to individual ownership by the member with each member receiving title to a specific portion of the property, based upon their specific home site. In a recent review this past year it was brought to the attention of the co-op that each member's home site is on a specific tract of land, except for the two member's home sites that are designated with two unrelated members who have bought the property. The first step of the solution is to modify the existing mortgages, in which they have gone to the lender and he has agreed, so the mortgages will only encumber the specific parcel of land that the borrowing member has rights to. This will resolve some of the issues, but it does not resolve the issue with the 2 members. The second step of the solution is that with this application the desire to subdivide the one lot, so that each of those two members has a legal lot, so that they may obtain construction financing and in the event of dissolution they can receive title to their home site. In summary under current zoning and CC&R's and the co-op by-laws, seven single family homes are permitted to be built on the entire co-op property of over 100 acres; this subdivision will not increase the number of homes that can be built on the property, that it will still be seven, it will just help to resolve the outlying financial and legal issues with the members. Courtney then spoke about the issues with the road, in which it was stated that Fox Lake Lane and the access easement would remain on one of the lots created and that the road is narrower than currently required, and that is why a variance was requested. It is not financially feasible to pay for the widening of the road and some residents in the neighborhood are not in favor of widening it due to the wildlife in the protected meadow area and the large amount of dirt that would have to be moved. The approval of this application will not increase the number of homes that may be built and would not have any impact on emergency services, other than what exists today. The approval of the application will improve the emergency and fire access with the installation of a 60 foot radius turn within the easement near where the two lots are. The two owners have the ability to do that and are willing to. Also stated was that they would like to be annexed into the Whitefish Rural Fire Department and have been told that the Fire Departments primary concerns would be on some of the turn around's. With the road and fire issues being a marked improvement over what exists now. There are currently two access easements on the existing lot and if the application is approved, one of them will be removed and the other one cannot be moved or removed is why a variance was requested. It was then stated that if do approve the application with the variances requested, condition #1 refers to the internal subdivision road and there is no internal subdivision road. #3 refers to joining a homeowners association for repair of roadways, walkways and common area, and there are none. Also spoke about condition #5 which has to do with emergency access with this being a rural area, developed some time ago, with one road in and one road out.

Chairman Brenneman then asked the commission if there seemed to be a willingness to try to accommodate this. He then stated that it was his understanding that this change would not represent additional homes being built on the property.

Courtney then stated that is correct that this would only allow them to finance the transfer, with the property having covenants to prevent any further subdivision.

Chairman Brenneman then said that they have recommendations from the staff that the findings do not support granting preliminary plat.

Commissioner Hall then stated that the presentation helped and then asked Grieve if he saw any way to make this work.

Grieve then stated that he sympathizes with what was said and understands the situation, but as staff going through it in light of state law and subdivision regulations that this subdivision is located on a primary access road and does not conform with subdivision regulations. The request for variances is that staff's analysis is that they do not comply with the five criteria and also do not comply with emergency access provisions of the master plan.

Commissioner Hall stated that his main concern with the project is the safety in getting emergency response vehicles in and out.

Grieve then stated that it was up to the commission, but his opinion on this is that it does not conform to subdivision regulations and that is the way it is looked at in the planning office.

Commissioner Lauman stated that he appreciated the presentation and then spoke of his concern of a fire sweeping through and the homeowners not being able to get out; and questioned who would be at fault.

Commissioner Hall spoke about the county being at fault if it is approved without adequate fire services. He then stated that it is difficult to turn this down, but that it definitely does not meet certain conditions.

Chairman Brenneman stated that he agrees with the overall concept of what Beaver Creek Co-Op attempts to do, however it appears that it was not adequately planned in the initial development of the co-op and as he sympathizes with the dilemma it is not the county's responsibility to bail them out in effect, especially at the risk of public safety.

Commissioner Hall then asked if the findings of fact were adopted, if there would be an opportunity to mitigate the variances where they could be acceptable.

Grieve stated that in the presentation the applicant stated a few things in which he took note of. The easement on lot 2, that there was a landowner that was refusing to grant an easement; that would be a red flag in that you will always have a lot split by an easement. Also the road width issue and financial hardship it would be; they can't look at financial hardships, they have to look at public health, safety and general welfare.

Commissioner Hall made a **motion** to adopt Staff Report #FPP 06-28 as findings of fact and to deny Beaver Creek HC 1. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

The above motion was corrected on 5/15/07 with Commissioner Lauman making a **motion** to change the Staff Report to #FSR 06-28. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

### **COS REVIEW: STOKKE**

[10:39:17 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Planner Kirsten Holland, County Attorney Peter Steele, Debbie Shoemaker, Rich DeJana, Bob Keenan, Greg Bain, Mark Spratt, Bob Fraser, Clerk Diana Kile

Holland reviewed the Stokke boundary adjustment request in which the 509 committee recommended denial. It was stated that a previous application for subdivision on tract 2A, which is a tract being looked at today was recommended for denial by staff due to a variety of issues, most importantly floodplains and water issues. Holland then said that a letter was received from Rich DeJana with minor changes. Holland then reviewed the chain of title.

Commissioner Hall then said that the Eagle Cove Estates Subdivision that was pulled basically is the same as what is being proposed in the COS boundary line adjustment.

Holland then stated that the only difference is the common area which would not be buildable. It is basically the same thing, but now it is just tract 2A since Mrs. Stokke owns all the property now, she has extended each of the lots all the way down to the bottom of the tract. The reason this is being reviewed by the commission is that it appears to be an evasion of subdivision; with the subdivision recommended for denial by staff, which was sub sequentially withdrawn. We now basically have a person who wants to do essentially what the subdivision would have done with more land in the lake. It was then stated that it was going to be denied, so they asked to meet with the applicant to ask questions in which it was explained to the applicant that they felt suspicious of an evasion.

Commissioner Lauman then asked if the buildable areas could be pointed out, in which Holland pointed it out.

Commissioner Hall then stated that obviously this needs to go through subdivision review with the sensitive area like that.

Holland then said that staff doesn't recommend denial very often, but when they do commonly particularly with minor subdivision with findings that point towards denial because issues can't be mitigated, even if you don't make a recommendation the applicant will often pull the application and make the changes. Some of the conditions that were imposed included building site set backs and the list was onerous.

Chairman Brenneman questioned Steele in asking that the question before them is, does this appear to be an evasion of subdivision review, it is not at this point a question of is this a good use of the land; that the question before them is, does this appear to be an evasion of subdivision review.

Steele then stated that is correct. That the statute says that any time an exemption is made and needs a boundary line adjustment, unless it is an evasion and you as a commission need to decide if it is an evasion. He then stated that the 509 committee looked at it and kicked it out for review.

DeJana then asked if the applicant would get to participate in the jury before there is a course of action.

Chairman Brenneman then asked if any commissioner had a question for the applicant.

DeJana then said that it was a question as to if the applicant gets to participate in this hearing.

Chairman Brenneman then said, that is why he asked if there was a question for the applicant.

DeJana then said not otherwise, in which Chairman Brenneman said, no.

Chairman Brenneman then asked if there was a course of action.

DeJana then asked if they wanted to know about Stokke's relationship.

Commissioner Lauman stated that they did.

DeJana stated that he wanted in the record, two documents and then stated that Stokke is a sibling. He then said the first letter he wants entered into the record is only because it was a letter from the client stating he had permission to do it and the second letter is from a client, which is part of the application that fills in some of the blanks.

Chairman Brenneman then asked if the questions had been answered, in which Commissioner Lauman stated that it was.

DeJana then said, may I at least place in the record a procedural due process issue that if the applicant does not participate in his own hearing and ask certain questions he can be denied procedural process.

Steele then stated that this is a public hearing,

DeJana then said that it is a hearing, that it is not a public hearing.

Commissioner Hall then questioned if we normally ask questions of the applicant to ask if this is an evasion.

Steele then stated that this is a hearing before the board and if the board wants the applicant to participate they can ask questions.

Chairman Brenneman then stated that procedurally up to this point they have been following that; that we are not required to ask for general comments from the applicant.

Steele then asked if they had questions of them that it is up to them.

DeJana then said that the applicant is denied the right to cross examination of the one who has testified under your 509.

Commissioner Hall then asked if the applicant was here.

DeJana then stated that he was representing the applicant.

Commissioner Hall then asked if this was an evasion of subdivision, in which DeJana stated no.

Chairman Brenneman asked Mr. DeJana to state for the record as precisely as possible why this is not an evasion of subdivision review.

DeJana stated that whether or not there are more issues to that, then --- He would love to cross examine the witness and is entitled to do that and I will lay out for the record much as the letter in which as you look at it, I'm sure you will recall as you read it, pages 5-6 that basically say that Bikerson is done exactly the same way as your subdivision review. It is not an evasion of 509, first of all, 509 has specific directory for Boundary Line Adjustment. First of all you look at the record and this is not a 160 acres being cut down and second and more important, the documentation submitted with this was the reason buildable areas. This is not an evasion under the criteria that you set up. He then spoke about the 5 days in which he would like to examine the witness in that the meeting was not requested until 5 days had past. That they had 5 days to either deny or accept. I have given you all the reasons in my arguments as well as additional information so that you can see what is going to happen to the property; very honestly, you have an obligation as a board both substitutive and procedurally due process in following your regulations. This notice does not follow your regulations. This hearing is not following regulations.

Chairman Brenneman then asked if that is his complete and thorough analysis of why this is not an evasion.

DeJana then asked if he has read the appeal.

Chairman Brenneman then asked if he had anything further to add, in which DeJana said, other than what I have submitted and if I can cross examine the witness.

Chairman Brenneman then read a document for reference that the commission states that re-location of common boundary lines may be considered an evasion of the act if it is determined that (a) The documentation submitted does not support the stated reasons for the re-location, or it creates a parcel of less than 160 acres, which prior to the re-location had more than 160 acres.

Steele stated that as far as the five days, the 509 does say that we need to contact the land owner within the five days, and what they did instead of sending a denial, they went informally and talked to them to see what was going on.

Commissioner Hall then said that normally you just recommend denial and in this case you offered to speak to the land owner.

Steele stated that a note was sent to the surveyor, Marquardt, because in the 509 committee the Planning Staff sits in with the committee and they knew that there had been a lot of activity in the area and wanted further explanation with this being such a sensitive area, with the lots being under water, which now they are out of the water.

Chairman Brenneman then said that as far as options before us today, that one option would be to start this process over to make sure the five days is not an issue in the future.

Steele then asked if he meant to re-submit the request.

Chairman Brenneman then said that he was just asking procedurally if there was a way that they could address the issue of five days.

Steele then said that no, he just wanted to explain the rules for the five days and the context in which it happened.

Chairman Brenneman then said that it is on the record and asked for a motion for action.

Commissioner Lauman stated that he would like more time to look at it and that maybe they could bring it back and comply with the five day review process, if we did not do that; maybe we should do it again and bring it back.

Chairman Brenneman then said that DeJana stated clearly earlier that he had made his appeal at this point and had also given it to them in writing.

DeJana then asked if he could cross examine the witnesses.

Commissioner Lauman made a **motion** to request that the boundary line adjustment be re-submitted so that they can adequately address all the information. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

#### **CONSIDERATION OF LAKESHORE PERMIT: MARTIN**

[11:10:20 AM](#)

Members present:

Chairman Joseph D. Brenneman  
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Planner George Smith, Randall Snyder, Clare LaMeres, Greg Bain, Erica Wirtala, Clerk Diana Kile

Smith reviewed the application for a Lakeshore Permit for Lyle Martin at Juniper Bay LLC, in which the applicant wishes to install a community water system waterline at 396 North Juniper Bay Road. Two pickups and below grade water lines will supply an irrigation watering system and feed a purification processing plant to supply domestic water to an apartment complex.

The in-flow pickups will be located approximately 90 feet from shore, at a depth of water of approximately 10 feet. All work will be to current Lakeshore, electrical and Montana Department of Natural Resources and Conservation standards.

Smith stated that they meet the standards as far as setbacks and as far as the actual proposal it is in compliance with the Lakeshore Protection Zoning. They have received an interim license. The current statement by the applicant is that these will be apartment buildings.

Holland then reviewed the criteria for apartment buildings verses condos.

Smith then said that currently the property does not have a legal sewer connection with the license being on hold. He then stated that staff does not have the ability to understand whether or not this is appropriate with there seeming to be different information on whether or not they are apartments.

Commissioner Lauman questioned how this would apply with the interim zoning, in which Smith said they are grandfathering in.

Holland then said they are grandfathering in as apartments only.

Chairman Brenneman questioned if this is the same location where a well went through some septic drain fields.

Smith then said that is correct, and that is why they can't have a well and have gone to the state to ask for lake water.

Chairman Brenneman then said that with a proper public review would this not have been addressed. If they had come and said we are building condos; review us.

Smith then said then it would have been reviewed as condos and would have gone through subdivision review.

Holland said a "will serve letter" from Lakeside Water as well as a water plan submitted to DEQ would all have been required for final plat.

Commissioner Lauman questioned how the permit and right to use ground water would play into the Vista situation that is going on.

Smith then said that is why they have an interim license.

Greg Bain stated that there is a sewer connection and that what has not been done yet is the application for the actual permit with the sewer being extended and approved.

Commissioner Lauman questioned Greg Bain in regards to the Vista situation and what his plan would be for an interim.

Greg Bain said that he can't answer that other than they keep working at getting it resolved as quickly as possible.

Chairman Brenneman then said that with the information we have now in regards to the permit that it complies with the permitting process, in which Smith stated that as far as Lakeshore Permits it does.

Chairman Brenneman said that with the lack of full disclosure is probably not something that can be addressed with the Lakeshore Permit and as hesitant as we are given the fact the permit has condos on it, every indication is that it was built to try to go around the very review that would prevent this sort of thing from happening; in which it has happened.

Clare LaMeres stated that what they intended to do from the get go is to build apartments in an unzoned area and the reason the condo thing came up, first of all Jim from DEQ saw Juniper Bay Villas, which is what they are calling their apartments, so he is the one that used the term condo; with no one paying any attention to it. As developers looking for what is called an exit strategy, what do we do after five to ten years they decide they want to sell the complex as an apartment unit; are there any other options. They were informed of the possibility of yes; you can turn them into condos then. LaMeres then stated that is how that came about; that it was not intended of lets go in there and build condos and try to evade what the planning people want us to do, with it turning into that with people saying things that are not true. That they are apartments are rent.

Chairman Brenneman then said what we are considering here is a permit.

Commissioner Lauman made a **motion** to approve Lakeshore Permit #FLP 07-29. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

## **CONTINUATION OF ENERGY PERFORMANCE PROJECT DISCUSSION/ COUNTY FACILITIES**

[11:29:06 AM](#)

Members present:

Chairman Joseph D. Brenneman  
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, Jed Fisher, Laurel Raymond, Clerk Diana Kile

Pence reported on the Johnson Control Energy Performance Project, in which he is looking for approval from the commission to continue with the performance contract. The savings from this project will be guaranteed to pay for the upgrades.

Fisher spoke about the years of neglect of the buildings; up to 100 years of neglect with the Courthouse and virtually no improvements on the mechanical system done on the Justice Centers for years. This project would address the complete package including the Courthouse, Jail and Juvenile Detention Center.

Laurel said that what she sees is that all the things they will be doing are items that sooner or later they are going to have to do; so it is a pay now or pay later. She then stated that what she likes about the program is that it is no new dollars, that they have budgeted for the HVAC system and rather than having to expend it, paying contractors to come in and complete it, it is on the debit service of the loan. Laurel then explained how the debit works and stated that she feels comfortable supporting the project.

Fisher then said that most of this would be addressed before winter with them coming in and dealing with the HVAC systems; with it being important that they move forward in a timely fashion.

Commissioner Lauman made a **motion** to continue the energy performance contract. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

#### **FINAL PLAT: COYOTE RIDGE**

[11:25:07 AM](#)

Members present:

Chairman Joseph D. Brenneman  
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, Erica Wirtala, Clerk Diana Kile

Holland reviewed the application submitted by John and Marilee Hoppner with technical assistance from Big Sky Surveying for final plat approval of Coyote Ridge Subdivision; a subdivision creating three residential lots on 19.84 acres. This property is located west of Farm to Market Road on Mountain Meadow Road. Preliminary plat approval was granted on December 6, 2006, subject to 14 conditions. All conditions have been met. Staff recommends approval.

Commissioner Lauman made a **motion** to approve final plat for Coyote Ridge Subdivision. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

#### **FINAL PLAT: SUBDIVISION NO. 148, LOT 4**

[11:25:52 AM](#)

Members present:

Chairman Joseph D. Brenneman  
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, Joe Kauffman, Clerk Diana Kile

Holland reviewed the application submitted by William Norton with technical assistance from Sands Surveying for final plat approval of Subdivision No. 148, amended plat of Lot 4; a subdivision creating two residential lots. This property is located at 25 Whalebone Court, accessed from Whalebone Drive. Preliminary plat approval was granted on June 6, 2006, subject to 13 conditions. All conditions have been met. Staff recommends approval.

Commissioner Lauman made a **motion** to approve final plat of Subdivision No. 148, Lot 4. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

#### **MEETING W/ IMPACT FEE COMMITTEE**

[11:47:01 AM](#)

Members present:

Chairman Joseph D. Brenneman  
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, Assistant Planning Director B J Grieve, Clerk Diana Kile

Grieve reported that he was sent by the Impact Fee Committee to determine the best way to proceed at this point; that they have chosen jails as a reasonable gradual learning curve in taking off on impact fees. It was then said that there is a list of requirements that are very specific about research and the report that needs to be written. For them to start out on roads or some other things for which they are considering impact fees that research paper would be exhaustive, extensive and expensive. It was decided that they would cover something that they think a consulting firm could wrap their hands around and tackle for a relatively inexpensive price. It was then stated that a lot of research has already been done on the jail with the CIP, so the impact fee committee would like to do a consulting contract to write this research paper. What is being requested is approval for the Planning & Zoning Office to proceed with contacting a firm that has the expertise in doing so. Once the research paper is complete, you would move onto the next segment and adopt the impact fee if it were determined to do so.

Discussion was then held relative to impact fees on county roads and how that could be addressed.

Grieve said that in order to do impact fees on county roads they need county wide zoning.

Chairman Brenneman questioned if they were to establish road districts so that any development in the district would go into the road fund; then would that address it.

Grieve then stated that the research paper would have to be done first.

Commissioner Lauman made a **motion** to allow the Impact Fee Committee to pursue the study. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

- 11:00 a.m. Commissioner Hall to meeting w/ Roger Grimaldi**
- 12:00 p.m. Commissioner Brenneman to Bigfork Steering Committee Public Forum @ Bethany Lutheran Church**
- 1:30 p.m. Commissioner Hall to Technical Advisory Committee meeting @ MDOT**
- 2:00 p.m. Commissioner Lauman to AOA Board meeting @ Kalispell Sr. Center**
- 4:00 p.m. Commissioner Hall to Montana West Economic Development Board meeting @ MWED Office**
- 6:00 p.m. Fair Board meeting @ Fair Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 11, 2007.

\*\*\*\*\*

### **FRIDAY, MAY 11, 2007**

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

- 3:00 p.m. Commissioner Brenneman to speak at Leadership Flathead**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 14, 2007.

\*\*\*\*\*