
MONDAY, JUNE 4, 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, no one present to speak, Chairman Brenneman closed the public comment period.

DOCUMENT FOR SIGNATURE: SERVICE PROVIDER DESIGNATION FROM /CDC

[9:15:18 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk & Recorder Paula Robinson, County Attorney Jonathan Smith, Clerk Kimberly Peacock

Commissioner Lauman made a **motion** to approve the CDC (Chemical Dependency Clinic) document. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF FLATHEAD COUNTY PLANNING BOARD UPDATED BYLAWS

[9:19:57 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, Mary Sievers, Clerk Kimberly Peacock

Discussion was held relative to updating the Flathead County Planning Board's Bylaws.

Jeff Harris presented the board with an amended agreement which has been reviewed by the County Attorney.

Commissioner Hall made a **motion** to adopt the amendment changes to update the Flathead County Planning Board's Bylaws. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF CLAIMS: FAIRGROUNDS

[9:29:18 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk & Recorder Paula Robinson, Fairgrounds Director Jay Scott, County Attorney Jonathan Smith, Clerk Kimberly Peacock

Discussion was held relative to the approval of two claims from the Flathead County Fairgrounds that the Clerk & Recorder questioned.

Mike Pence said that the County Attorney explained the law in regards to the authority of the Fair Board and their approval of claims.

Commissioner Hall questioned the letter prepared for the Commission to sign that is encouraging them to approve the claims.

Jonathan Smith said that the Fair Board authorized the payments and that they operate differently than the county.

Commissioner Lauman spoke about this being a one time only situation and in the future it would be done differently.

Chairman Brenneman then said that he agreed with Commissioner Lauman.

Commissioner Lauman made a **motion** to authorize the signature of the letter prepared and authorized the payment of the claims. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously

AUTHORIZATION TO PUBLISH RFP: FLATHEAD COUNTY WEBSITE ENHANCEMENT DEVELOPMENT & IMPLEMENTATION

[9:37:52 AM](#)

Members present:

Chairman Joseph D. Brenneman

Commissioner Gary D. Hall
Commissioner Dale W. Lauman
Others present:
Assistant Michael Pence, County Attorney Jonathan Smith, I.T. Director Vicki Saxby, Gil Parsons, Clerk Kimberly Peacock

Saxby reported that a representative from each department within the county has given their input for departmental needs on the county website.

Commissioner Hall made a **motion** to approve the authorization to publish an RFP for the County Website Enhancement. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

REQUEST FOR PROPOSALS
FLATHEAD COUNTY
WEBSITE ENHANCEMENT, DEVELOPMENT AND IMPLEMENTATION

Flathead County is requesting proposals from experienced website design firms to provide services to enhance, develop, implement and provide maintenance information for the County's website. This project will involve utilizing posted information on the existing website as well as the implementation of new information, products and features as suggested by the County and the firm selected.

Proposal instructions are available from the Flathead County Information Technology Department, 920 South Main Street, Kalispell, Montana 59901 or by fax to 406-758-5882, and online at the County website www.co.flathead.mt.us/rfp. A schedule, including deadlines for submission of letters of interest and submission of the completed proposal, is set forth in the instructions.

Questions should be directed, as set forth in the instructions, to: Vicki Saxby, Director, Flathead County Information Technology Department, 920 S. Main, Kalispell MT, 59901, Fax - 406-758-5882, Phone - 406-758-5564.

Flathead County intends to negotiate an agreement based upon fair and reasonable compensation for the scope of work and services to be provided. Flathead County also reserves the right to reject any and all responses deemed unqualified, unsatisfactory or inappropriate.

Dated this 4th day of June, 2007.

Board of County Commissioners
Flathead County, Montana

By: s/ Joseph D. Brenneman
Joseph D. Brenneman, Chairman

ATTEST:
Paula Robinson, Clerk

By: s/ Kimberly A Peacock
Kimberly A Peacock, Deputy

Publish: June 7th and June 14th, 2007.

MEETING W/ SALARY COMPENSATION BOARD COMMITTEE

9:48:48 AM

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Absent:

Commissioner Gary D. Hall, Susan Nicosia, Mike Meehan

Others present:

Assistant Michael Pence, Treasurer Adele Krantz, County Attorney Ed Corrigan, Finance Director Laurel Raymond, HR Director Raeann Campbell, County Attorney Jonathan Smith, Clerk & Recorder Paula Robinson, Anita Hoye, Clerk Kimberly Peacock

Discussion was held relative to compensation for elected officials for 2008 with the recommendation of:

- Add 3.2% cola to the elected official's wages
- Add \$2,000.00 per year to the County Treasurer
- Give longevity to elected officials per county policy

Clerk & Recorder Robinson made a **motion** to adopt the recommendation of adding 3.2% cola to elected officials wages with the recommendation to adopt for employees. Treasurer Krantz **seconded** the motion. **Aye** – Brenneman, Lauman, Robinson, Krantz, Corrigan, Smith and Hoye. Motion carried unanimously.

Commissioner Lauman made a **motion** to approve \$1,000.00 per year to the Flathead County Treasurer for a total of \$2,000.00. Hoye **seconded** the motion. **Aye** – Brenneman, Lauman, Robinson, Krantz, Corrigan, Smith and Hoye. Motion carried unanimously.

Discussion also included longevity in which it will stay the same.

BI-MONTHLY MEETING W/ GUY FOY, ROAD DEPT.

[11:00:47 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall Seated [11:12:36 AM](#)
Commissioner Dale W. Lauman

Others present:

Assistant Michael Pence, Interim Road Department Superintendent Guy Foy, Clerk Kimberly Peacock

Foy stated that they will be aligning Truman Creek Road and taking out a culvert. He then reported on culvert and ditch work to be done on Batavia Lane and a Rail Road Crossing in West Evergreen. Foy then spoke about a road standards meeting with the Planning & Zoning Office and stated that a few changes were made and that they were close to adopting them. Discussion also included the use of vegetable oil on roads for dust abatement and a DEQ letter.

PRELIMINARY PLAT: STONEFIELD ESTATES SUBDIVISION

[11:34:02 AM](#)

Members present:

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

Others present:

Planner Kirsten Holland, Lonnie Mitchell, Joe Kauffman, Clerk Kimberly Peacock

Holland reviewed the application submitted by Lonnie Mitchell with technical assistance from Big Sky Surveying for preliminary plat approval of Stonefield Estates Subdivision; a three lot minor subdivision with an open space parcel on 27.59 acres located on a private road off Lost Creek Drive that would be served by individual water and septic systems.

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

Lonnie Mitchell stated that if he paved the road that it would be the only paved road in the area with other developments in the area being all gravel. He then said that he went into this with the idea that they would add two inches of gravel to Stonefield Lane and provide dust abatement.

Discussion was held relative to condition #2 that will be deleted and condition #6 that will be changed to state: The road user's agreement shall also require that each property owner shall bear his or her pro-rata share for dust abatement along Lost Creek Drive from the intersection with Stonefield Lane to Farm to Market Road.

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

CONDITIONS

1. The private, internal subdivision road (Stonefield Lane) shall consist of a 60-foot right-of-way, minimum 20-foot driving surface, and either a hammerhead or cul-de-sac as approved by the West Valley Fire District. The road shall be designed and certified by a licensed, professional engineer.
2. The subdivider shall receive physical addresses and road names in accordance with Flathead County Resolution #1626. The addresses and road names shall appear on the final plat. [Section 3.9(I)(7), FCSR]
3. A stop sign shall be installed at the intersection of Stonefield Lane and Lost Creek Drive. [Section 3.9(I)(8), FCSR]
4. The subdivider shall obtain and show proof of a completed approach permit from the Flathead County Road Department for access onto Lost Creek Drive, indicating the approach has been built and received final inspection. [Section 3.8(A), FCSR]
5. Lot owners within the subdivision will participate in a Road Users' Agreement or Property Owners Association which will require each property owner to bear his or her pro-rata share for maintenance of Stonefield Lane. This Road Users' Agreement shall also require each property owner to bear his or her pro-rata share for dust abatement if requested along Lost Creek Drive from the intersection with Stonefield Lane to Farm to Market Road.
6. New electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
7. The lots within the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality for individual sewer and water and storm water management. [Sections 3.14 and 3.15, FCSR]
8. The subdivider shall comply with reasonable fire suppression and access requirements of the West Valley Fire Department. A letter from the fire chief stating requirements have been met shall be submitted with the application for Final Plat. [Section 3.20, FCSR]
9. All areas disturbed during development of the subdivision shall 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]
10. The applicant shall 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]
11. The following statements shall 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 extended underground.
- c) The property owners association or road users' agreement will govern maintenance of the internal subdivision road. The road will be maintained, including necessary repairs and snow removal to ensure safe all-weather travel for two-way traffic.
- d) Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
- e) To comply with Section 3.34.080 FCZR, no lot shall be further subdivided, including Lot 4 (open space).

f) Waiver of Protest
Participation in Special Improvement District

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

- 12. The open space parcel (Lot 4) shall be clearly designated as open space on the face of the final plat. [Section 3.34.80, Flathead County Zoning Regulations]
- 13. The applicant shall record a deed restriction on the open space parcel, prohibiting further division and dedicating the land as permanent open space with a maximum two acre building envelope. The deed restriction shall be filed with the Flathead County Clerk and Recorder and shall run with the land. [Section 3.34.080(1), FCZR]
- 14. All required improvements shall be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, shall be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
- 15. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
- 16. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

PRELIMINARY PLAT: SHADY MEADOWS

[12:05:34 PM](#)

Members present:

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

Others present:

Planner Kirsten Holland, Brian Sullivan, Clerk Kimberly Peacock

Holland reviewed the application submitted by Stillwater Land Company, LLC with technical assistance from F & H Surveying for preliminary plat approval of Shady Meadows Subdivision; a five lot minor subdivision that will create 5 residential lots with a remainder. This property is located off Hwy 93, approximately 5 miles northwest of Whitefish.

Discussion was held relative to amending condition #7 that will state: Lot owners within the subdivision will participate in a Road User's Agreement and Property Owners Association requiring each property owner to bear his or her pro-rata share for maintenance of the internal subdivision road and management of the Common Area/ Open Space.

Commissioner Hall made a **motion** to adopt staff report FSR 07-04 as findings of fact as amended. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Discussion was held relative to condition #8 that will be changed to state: The gravel operation will not be accessed through any portion of this parcel.

Discussion was held relative to condition #15 (j) that will be added to state: No lot or open space shall be further subdivided.

Commissioner Hall made a **motion** to approve preliminary plat for Shady Meadows Subdivision as amended. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONDITIONS

- 1. The northern internal subdivision road shall be designed and built by a licensed professional engineer, including a 60-foot easement, 20-foot paved driving surface and 60-foot outside radius cul-de-sac.
- 2. The southern internal subdivision road shall be designed and built by a licensed professional engineer, including a 60-foot easement and 20-foot paved driving surface. Paving shall end, at a minimum, at the eastern boundary of Lot 5.
- 3. A temporary cul-de-sac for the southern internal subdivision road shall be constructed as shown on the preliminary plat. The driving surface from the end of the paving through the cul-de-sac shall be constructed to county standards for gravel roads.
- 4. The subdivider shall receive physical addresses and road names in accordance with Flathead County Resolution #1626. The addresses and road names shall appear on the final plat. [Section 3.9(I)(7), FCSR]
- 5. Road identification and stop signs shall be installed at the intersections of the internal access roads and US Highway 93.

[Section 3.9(I)(8), FCSR]

6. The subdivider shall obtain and show proof of completed approach permits from the Montana Department of Transportation for access onto US Highway 93, indicating the approaches have been built and received final inspection. [Section 3.8(A), FCSR]
7. Lot owners within the subdivision will participate in a Road Users' Agreement and Property Owners Association which will require each property owner to bear his or her pro-rata share for maintenance of the internal subdivision road and management of the Common Area/Open Space.
8. The gravel operation shall not be accessed from either residential approach.
9. New electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
10. The lots within the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality for individual sewer and water and storm water management. [Sections 3.14 and 3.15, FCSR]
11. The subdivider shall comply with reasonable fire suppression and access requirements of the Whitefish Rural Fire Department. A letter from the fire chief stating requirements have been met shall be submitted with the application for Final Plat. [Section 3.20, FCSR]
12. All areas disturbed during development of the subdivision shall 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]
13. No development shall take place in the area designated as open space. Vegetation shall be preserved and managed only to reduce fire risk and maintain a healthy natural environment for wildlife and plant species.
14. The applicant shall 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]
15. The following statements shall 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 extended underground.
 - c. The property owners association or road users' agreement will govern maintenance of the internal subdivision road. The road will be maintained, including necessary repairs and snow removal to ensure safe all-weather travel for two-way traffic.
 - d. Lots shall be served by contract haul of solid waste.
 - 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.

Waiver of Protest
Participation in Special Improvement District

_____ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes _____ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that _____ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. _____ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for _____ Subdivision.
 - g. Lot owners are alerted to the presence of large and potentially dangerous wildlife in the area and are reminded that feeding big game is illegal, as it not only has negative impacts on wildlife, but also 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:
 - Keeping dogs under owner control at all times.
 - Using wildlife-proof garbage containers.
 - Removing obvious sources of food.
 - Securing compost piles with electrical fencing.
 - Feeding pets indoors or bringing food dishes in at night.
 - Placing bird feeders well out of reach of deer and other large game species.
 - h. Only Class A and B roofing materials are permitted.
 - i. Defensible space standards as outlined in Appendix G of the Flathead County Subdivision Regulations shall be incorporated around all structures.
 - j. No lot or open space shall be subdivided.
16. All required improvements shall be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, shall be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
17. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
18. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

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

TUESDAY, JUNE 5, 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.

Bruce Young spoke on behalf of Flathead Lake Protection Association about Eagle's Crest Subdivision, in which he presented photo's to the Commission and stated that he has been a resident for 61 years in Lakeside. His concerns with the project are the proposed building sites in regards to drainage, density, highway safety and wildlife. He also said that the county doesn't have a 20 year master plan and this project is being proposed for 40 years. He then said on behalf of himself and the Flathead Lake Protection Association he asked that this project be denied.

Fran Ruby 85 Spring Creek Road spoke in opposition of the density of Eagle's Crest Subdivision and also stated her concerns with the runoff they have at their home.

Howard Ruby 85 Spring Creek Road spoke in opposition with concerns in regards to traffic.

Public comment received via fax from Brent Hall:

I was completely dumbfounded last night at the Flathead County Planning Board Meeting as they considered FPP-07-10 a request by MT Eagle Acquisitions, LLC/ Mt. Eagle Holdings, LLC, for Preliminary Plat approval of Eagle's Crest Subdivision, Phases V-IX.

In the first place, at their October '06 board meeting the board requested that they come in with a plan for the entire project and what their intentions were for development. The planning office had no problem accepting the developer's \$35,000 application fee and worked very well with the developer to get the job done. After the staff presentation and then the developers, the citizens in the audience then spoke, the majority of them from Lakeside. Everyone had nothing but accolades to say for the project, with only one person speaking against the project.

To the best of my knowledge, this is the first time I have ever seen a project come out of the planning office without a favorable or negative recommendation. Also, the board did not adopt or approve the findings-of-fact, as they we're split down the middle on this vote. I think they, the board are required by law to adopt or not adopt these facts when a project is to be forwarded to you gentlemen for approval. The board was hung up on many items that are frivolous and not in their jurisdiction. After asking the developer for his entire plan in the fall, I felt they left him with egg on his face by not acting in good faith and getting the job at hand done.

From their comments, I felt the majority of the board was impressed with the entire project; but that it was just too large for them to digest at this time, even though this is what they previously asked of the developer. They were hung up on the 30% slope issue and this could have been solved easily by requiring the developer to not have building sites that are over the 30% requirement. The planning staff acknowledged that the latest plat submitted by the developer fully addressed this issue, by showing that building pads of less than 25 degree slope accessible by a driveway of 10 degrees or less and signed by a licensed engineer had been submitted. Their next issue was the traffic problem in and out of the subdivision and the number of vehicles leaving and entering highway 93 south. They looked at it like there would be full time usage year round from the development, which is not true. These homes are going to be high end homes, mostly vacation type, similar to Iron Horse and Eagle Bend, where the occupants are only there during the summer months. Even so, during these peak seasons, these people usually stay a few months and then it's back down south or wherever, to their primary residences. With a 40 year build out, there should be very little impact on Highway 93 South. The developer will even bear the expense of turn lanes on the highway when given the okay by the highway department. The boards concern on wild game corridors was completely out of line. What better corridor do you have for wildlife, than a golf course, with wide open spaces and ponds for the elk, deer, bear, moose, ducks and geese to use? If you go to Meadow Lake, Iron Horse or Eagle Bend, these places are now great wildlife preserves for all to see and enjoy. The impact on wildlife will be enhanced and not hindered. The concern about fire was bogus as the Somers and Lakeside Fire Departments gave complete thumbs up for the project. With the great expanses of the golf course and the runway, people would have a place to run for safety. The fuels created by this thinned out fir and larch forest will be very minimal as the trees will have been thinned and the under story removed, just as it has in the first phases of this project. The fuel types found at Iron Horse and Meadow Lake because of the Lodge Pole Pine over story are of higher intensity, yet these projects are approved and running just fine. Also, the developer has great fire fighting equipment and fire hydrants that will be placed appropriately throughout the project. The concern about low income housing was uncalled for as this type of development is not conducive for this type of construction. If it was, the developer would fill it with double wides or student built houses and make a fortune. Then we would really have a traffic problem. Get real. These high end homes will add a great deal to our tax base over time and allow the county to take care of some real primary needs to improve our infrastructure countywide. Someone made the comment that the runoff from this project has already filled two lots across the highway, just south of Lakeside. This water has collected there every year for the last thirty years and if this concerned person chooses to bring this up at this time, he is way out-of-line. Drainage issues, with the developer and DEQ involved will get addressed. Because of the golf course, runway and home sites, drainage will be a problem. With proper engineering, DEQ involvement, holding ponds will be put in and because of the integrity of the developer, drainage will not be an issue. This is basically what I heard form the planning board, all of which could have been resolved at this meeting.

Development in this type of area was what we once wanted, as it doesn't eat up our farmland or Flathead River corridor and all concerns can be easily mitigated. The planning staff should be applauded for their working relationship with the developer and this project should be approved.

Please accept this letter on my behalf at your next commission meeting when the project comes before you. As I stated in a

previous correspondence to you, " We only pass through this world but once; any good thing, therefore, that we can do, or any kindness that we can show to our fellow creatures, let us do it now; let's not defer or neglect it, for we shall not pass this way again." This project will work and I urge you to support it in its entirety.

Brent L. Hall
Lakeside, MT.

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

CONTINUATION OF PRELIMINARY PLAT: RAY/ ASHBY SUBDIVISION

9:00:50 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, Jane Eby, Tom Ray, Clerk Diana Kile

Preliminary plat was continued from May 29, 2007, for further review of dust abatement.

Thompson reviewed the application submitted by Patricia Ashby and Thomas Ray with technical assistance from Eby & Associates for preliminary plat approval of Ray/ Ashby Subdivision; a four lot minor subdivision on 129.996 acres located on Lost Prairie Road, approximately 6.1 miles from the intersection of Hwy 2. These lots will range in size from 23.076 to 58.851 acres and will be served by individual wells and septic systems.

Thompson reviewed the requirement of paving 200 feet total at the point where Lost Prairie Road becomes gravel, approximately 5 miles down the road. The bid received from the applicant was for \$7,500.00 for paving of 200 feet and another \$5,800.00 to mobilize the equipment for paving. Thompson then reviewed the options which included:

- Applicant to create a road fund for Lost Prairie Road
- For the applicant to pay the money to the Road & Bridge Department there would have to be a project established to pay directly into
- The applicant can create a savings account under the homeowner's association name and it would then be earmarked for road building on Lost Prairie Road.

General discussion was held relative to the options.

Commissioner Lauman said that if Finance is not in favor of creating a road fund, then the best option in his opinion would be to pay into the general road fund.

Commissioner Hall said that he hates to give up the opportunity to do paving on county roads.

Chairman Brenneman said that he agrees with Commissioner Lauman and then stated the other way this could affect these roads would be if the lots are further subdivided.

Thompson then said that she had spoken to Jane Eby about the lots being further subdivided.

Chairman Brenneman asked if the applicant would be opposed to stating that the lots shall not be further subdivided.

Jane Eby said that preferably they would not like to do that; they would prefer to donate \$7,500 to the road fund. Eby then stated that the currently policy for paving is 50 feet per lot.

Discussion was held relative to finding of fact #5 that states: This subdivision will add 40 trips per day to Lost Prairie Road, a county maintained road of which approximately 1.25 miles are paved and approximately 5 miles of it is gravel. Due to impacts of public health, safety and local services, condition 14 requires the applicant to pay to the Flathead County general road fund to mitigate the impact of this development for the cost to the county of maintaining Lost Prairie Road and other gravel roads.

Commissioner Lauman made a **motion** to amend the findings of fact to reflect the effects to the road and contribution to the road fund. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. **Opposed** – Hall. Motion carried by quorum.

Commissioner Lauman made a **motion** to adopt findings of fact as amended. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Condition 14 will be changed to state: The applicant shall provide proof of payment for \$7,500.00 into the Flathead County general road fund. A comparative study of road paving in the area is the basis of this amount.

Discussion was held relative to material costs that would be increasing over the years.

Chairman Brenneman said that the 4 lots are going to affect the road and if the subdivision contains the provision that these lots shall not be further subdivided; then we know that they are not going to be affecting the road.

Jane Eby said that one of the options offered through the Planning Department was to pave the 200 feet and not require that the lots be further subdivided, in which they prefer to not put that condition on the subdivision. Eby then said that if the lots were less than 5 acres she would be willing to condition on those terms, and questioned if they could condition lots 2-3-4 that will not be further subdivided and lot 1 could not be subdivided more than twice.

Jeff Harris then said that they would need to condition the average lot size to 19 acres.

Commissioner Lauman made a **motion** to place on the face of the final plat that lot 1 shall not be subdivided into more than 3 lots approximately 20 acres in size, lots 2-3-4 shall not be further subdivided. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Commissioner Hall stated that he feels the \$7,500 for the paving and half of the mobilization cost should be required.

Jane Eby then said that one of their options were no road requirements at all, in lieu of no further subdividing of the whole subdivision, so they have compromised already.

Commissioner Lauman made a **motion** to adopt the conditions as amended for the road contribution. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. **Opposed** - Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to approve preliminary plat of Ray/ Ashby Subdivision with amended conditions. Commissioner Lauman **seconded** the motion. **Aye** – Brenneman, Hall and Lauman. Motion carried unanimously.

CONDITIONS

1. The applicant shall comply with reasonable fire suppression and access requirements of the Flathead Fire Services Area. A letter from the Director stating requirements have been met shall be submitted with the application for Final Plat. [Section 3.21 of FCSR]
2. The applicant shall provide an approach permit from Flathead County Road & Bridge Department for the accesses onto Lost Prairie Road.
3. The applicant shall obtain approval of their preliminary floodplain study from the Water Resources Division of the Department of Natural Resources and Conservation.
4. The 100-year floodplain (as approved by the Water Resources Division of the Department of Natural Resources and Conservation) shall be delineated on the face of the final plat and marked with the following: "100-year Floodplain: No Build Zone."
5. The applicant shall meet the requirements made by the Flathead County Weed Department or shall meet with FCWD to make other arrangements. Proof shall be provided that requirements were met. An approved Soil Disturbance and Weed Management Plan shall be provided at final plat application. [Agency Comment]
6. Electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the utility companies.
7. The applicant shall receive physical addresses and road names in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 3.9(I)(7), FCSR]
8. The developer shall dedicate a 15-foot bike/pedestrian easement along Lost Prairie Road. [Section 3.11(A), FCSR]
9. The developer shall provide written documentation from the appropriate USPS postmaster, indicating mail delivery requirements have been met. [Section 3.22, FCSR]
10. The following statements shall be placed on the face of the final plat:
 - a. Lot owners should be aware they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
 - b. All addresses shall be visible from the road, at the driveway entrance or on the house.
 - c. All habitable structures and commercial buildings shall be built with internal sprinkling systems.
 - d. Buyers shall incorporate Defensible Space Standards around all structures.
 - 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. It is recommended that lot owners utilize contract haul of solid waste.
 - g. This subdivision is located in a silvicultural/agricultural area and potential nuisances such as noise, dust, odors, and irregular hours of operation are commonplace. As such, the right to farm on adjoining properties shall not be restricted as a result of the development or occupancy of this subdivision.
 - h.

Waiver of Protest

Participation in Special Improvement District

_____ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes _____ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that _____ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. _____ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for _____ Subdivision.
 - i. Lot 1 shall not be subdivided into more than three lots, each approximately 20 acres in size. Lots 2, 3, and 4 shall not be further subdivided.
11. All required improvements shall be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, shall be provided by the sub-divider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
12. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
13. Preliminary plat approval is valid for three years. [Section 2.5(D)(6), FCSR]
14. The applicant shall provide proof of payment for \$7500 into the Flathead County General Road Fund. A comparative study

of road paving in the area is the basis of this amount.

BI-MONTHLY MEETING W/ VICKI SAXBY, I.T.

[9:32:28 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, I.T. Director Vicki Saxby, HR Director Raeann Campbell, Clerk Diana Kile

Saxby reported they have hired another Programmer/Analyst and are fully staffed now. She then reported on the Web Enhancement Project that RFP'S were sent out for, in which she would like to have a committee review the proposals that are received. Saxby then reported that several departments within the county have asked to have a Kiosk in their lobby for informational purposes. She then reported that the mobile home taxes have been finished and they are now working on personal property tax notices and work for the Clerk & Recorder's office conversion of data

CONSIDERATION OF POLICY MANUAL CHANGES

[9:39:52 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, HR Director Raeann Campbell, Tammy Skramovsky, Solid Waste Director Dave Prunty, Karen Marr, Clerk Diana Kile

Raeann Campbell reported on the changes made to the policy manual which included benefit and tuition assistance clarification, employee conduct in regards to disciplinary action, DOT substance and alcohol abuse policy, attendance and leave structure policy, leave of absence without pay eligibility, travel reimbursements and expense reporting.

Commissioner Hall made a **motion** to approve the policy manual changes effective July 1, 2007. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

MONTHLY MEETING W/ RAEANN CAMPBELL, HUMAN RESOURCE OFFICE

[10:07:39 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, HR Director Raeann Campbell, Clerk Diana Kile

Campbell reported on the transactions for the month of May and on the recordable injuries for the year. It was stated that a class for accident investigations was held in May and there will be another in June.

Commissioner Lauman made a **motion** to approve the transactions for the month of May and authorized the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

PRELIMINARY PLAT: LABRANT HILLS

[10:18:34 AM](#)

Members present:

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

Others present:

Planner Kirsten Holland, Jeff Larsen, Ardis Larsen, Cindy Lewis, Clerk Diana Kile

Holland reviewed the application submitted by William Knoll with technical assistance from Larsen Engineering for preliminary plat approval of LaBrant Hills Subdivision; a minor subdivision that will create two residential lots in the LaBrant Lindsey Lane Zoning District. This property is located approximately 5 miles north of Bigfork off LaBrant Road, east of Hwy 35.

Commissioner Hall made a **motion** to adopt Staff Report FSR 07-05 as findings of fact. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Discussion was held relative to condition 10 (I) in which the wording will be changed to: Livestock or domestic animals, such as horses, cattle, pigs, sheep, goats, llama, poultry, etc., (including those kept as 4-H projects) are not allowed in this subdivision because they can attract bears, mountain lions, coyotes and wolves.

Commissioner Hall made a **motion** to approve preliminary plat of LaBrant Hills as amended. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONDITIONS

1. The County Commission shall approve a variance to Section 3.9(C) for direct access onto LaBrant Road, finding that the request for variance meets all criteria for hardship.
2. The subdivider shall receive physical addresses in accordance with Flathead County Resolution #1626. The addresses shall appear on the final plat. [Section 3.9(I)(7), FCSR]
3. The subdivider shall obtain and show proof of completed approach permits from the Flathead County Road Department for two accesses onto LaBrant Road, indicating the approaches have been built and received final inspection. [Section 3.8(A), FCSR]
4. New electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
5. The lots within the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality for individual sewer and water and storm water management. [Sections 3.14 and 3.15, FCSR]
6. The subdivider shall comply with reasonable access requirements of the Creston Fire Department. A letter from the fire chief stating requirements have been met shall be submitted with the application for Final Plat. [Section 3.20, FCSR]
7. All areas disturbed during development of the subdivision shall 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]
8. No development shall take place in the area designated as Lot 2/open space. Vegetation shall be preserved and managed only to reduce fire risk and maintain a healthy natural environment for wildlife and plant species.
9. The applicant shall 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]
10. The following language shall be placed on the face of the final plat and clearly marked:

The Montana Department of Fish, Wildlife and Parks have established guidelines for safely living near wildlife for this area, which is prime bear and lion habitat:

- a. Homeowners must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs, and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant nonpalatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Landscape plantings of certain species of native vegetation is less likely to suffer extensive feeding damage by deer.
- b. Gardens, fruit trees or orchards attract wildlife such as bear and deer. Fruit-bearing trees and shrubs are not allowed in this subdivision because they can regularly attract bears in the late summer/fall. Keep produce and any fruit, such as strawberries, picked and off the ground. Ripe or rotting fruit or vegetable material can attract bears, deer, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller or electric fences utilized.
- c. Garbage must be stored either in secure, bear-resistant containers or indoors to avoid attracting wildlife such as bears. If stored indoors, garbage cans may not be set out until the morning of garbage pickup and must be brought in no later than that same evening. Commercial lots shall use bear-resistant dumpsters if needs cannot be serviced by household-sized containers. If sites are occupied seasonally or if the occupants are to be away from the household for 7 days or more, garbage from the home, other buildings, or containers must be removed from the property prior to their departure.
- d. Do not feed wildlife or offer supplements (such as salt or mineral blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that can lead to overuse of vegetation, disease transmission, and other adverse effects to wildlife (such as foundering of deer). Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might attract mountain lions to the area.
- e. Birdseed is an attractant to bears and deer. Use of bird feeders is not recommended from April 1 through November 30. If used, bird feeders must: a) be suspended a minimum of 10 feet above ground level (measured from bottom of catch plate), b) be at least 4 feet from any support poles or points, and c) be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds. Hummingbird feeders will follow the same criteria.
- f. Pets must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not allowed to roam, as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals, and the owner may also be held accountable (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. Pet food must be stored indoors, in closed sheds, or in bear-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, and other wildlife. When feeding pets, do not leave food out overnight. Pets must be fed indoors or inside kennels so that wild animals do not learn to associate food with your home.
- h. Barbecue grills must be stored indoors, and permanent outdoor barbecue grills shall not be allowed in this subdivision. Keep all portions of the barbecues routinely clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Fencing of lot boundaries is discouraged. If used, rail or smooth wire fences will be erected that are no higher than 48" at the top rail/wire and no lower than 18" at the bottom rail in order to facilitate wildlife movement

and help avoid animals becoming ensnared and killed by the fence or injuring themselves when trying to jump the fence.

- j. Compost piles can attract bears and skunks and may not be used.
- k. Beehives can attract bears in this area and are not allowed in this subdivision.
- l. Livestock or domestic animals, such as horses, cattle, pigs, sheep, goats, llama, poultry, etc. (including those kept as 4H projects), are discouraged in this subdivision because they can attract bears, mountain lions, coyotes, and wolves

11. The following statement shall 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 extended underground.
- c. Lots shall be served by contract haul of solid waste.
- d. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
- e.

Waiver of Protest
Participation in Special Improvement District

_____ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes _____ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that _____ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. _____ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for _____ Subdivision.
- f. Only Class A and B roofing materials are permitted.
- g. Defensible space standards as outlined in Appendix G of the Flathead County Subdivision Regulations shall be incorporated around all structures.
- h. No lot shall be further subdivided.

12. All required improvements shall be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, shall be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]

13. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]

14. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

PRELIMINARY PLAT: LA BRANT HILLS 2

[10:35:35 AM](#)

Members present:

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

Others present:

Planner Kirsten Holland, Jeff Larsen, Ardis Larsen, Cindy Lewis, Clerk Diana Kile

Holland reviewed the application submitted by William Knoll with technical assistance from Larsen Engineering for preliminary plat approval of LaBrant Hills 2 Subdivision; a minor subdivision that will create two residential lots in the LaBrant Lindsey Lane Zoning District. This property is located approximately 5 miles north of Bigfork off LaBrant Road, east of Hwy 35.

Commissioner Lauman made a **motion** to adopt Staff Report FSR 07-06 as findings of fact. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Discussion was held relative to condition 10 (l) in which the wording will be changed to: Livestock or domestic animals, such as horses, cattle, pigs, sheep, goats, llama, poultry, etc., (including those kept as 4-H projects) are not allowed in this subdivision because they can attract bears, mountain lions, coyotes and wolves.

Commissioner Lauman made a **motion** to approve preliminary plat of LaBrant Hills 2 as amended. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONDITIONS

1. The County Commission shall approve a variance to Section 3.9(C) for direct access onto LaBrant Road, finding that the request for variance meets all criteria for hardship.
2. The subdivider shall receive physical addresses in accordance with Flathead County Resolution #1626. The addresses shall appear on the final plat. [Section 3.9(l)(7), FCSR]
3. The subdivider shall obtain and show proof of completed approach permits from the Flathead County Road Department for two accesses onto LaBrant Road, indicating the approaches have been built and received final inspection. [Section 3.8(A), FCSR]
4. New electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a

plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]

5. The lots within the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality for individual sewer and water and storm water management. [Sections 3.14 and 3.15, FCSR]
6. The subdivider shall comply with reasonable access requirements of the Creston Fire Department. A letter from the fire chief stating requirements have been met shall be submitted with the application for Final Plat. [Section 3.20, FCSR]
7. All areas disturbed during development of the subdivision shall 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]
8. No development shall take place in the area designated as Lot 2/open space. Vegetation shall be preserved and managed only to reduce fire risk and maintain a healthy natural environment for wildlife and plant species.
9. The applicant shall 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]
10. The following language shall be placed on the face of the final plat and clearly marked:

The Montana Department of Fish, Wildlife and Parks have established guidelines for safely living near wildlife for this area, which is prime bear and lion habitat:

- a. Homeowners must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant nonpalatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Landscape plantings of certain species of native vegetation is less likely to suffer extensive feeding damage by deer.
- b. Gardens, fruit trees or orchards attract wildlife such as bear and deer. Fruit-bearing trees and shrubs are not allowed in this subdivision because they can regularly attract bears in the late summer/fall. Keep produce and any fruit, such as strawberries, picked and off the ground. Ripe or rotting fruit or vegetable material can attract bears, deer, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller or electric fences utilized.
- c. Garbage must be stored either in secure, bear-resistant containers or indoors to avoid attracting wildlife such as bears. If stored indoors, garbage cans may not be set out until the morning of garbage pickup and must be brought in no later than that same evening. Commercial lots shall use bear-resistant dumpsters if needs cannot be serviced by household-sized containers. If sites are occupied seasonally or if the occupants are to be away from the household for 7 days or more, garbage from the home, other buildings, or containers must be removed from the property prior to their departure.
- d. Do not feed wildlife or offer supplements (such as salt or mineral blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that can lead to overuse of vegetation, disease transmission, and other adverse effects to wildlife (such as foundering of deer). Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might attract mountain lions to the area.
- e. Birdseed is an attractant to bears and deer. Use of bird feeders is not recommended from April 1 through November 30. If used, bird feeders must: a) be suspended a minimum of 10 feet above ground level (measured from bottom of catch plate), b) be at least 4 feet from any support poles or points, and c) be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds. Hummingbird feeders will follow the same criteria.
- f. Pets must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not allowed to roam, as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hooved game animals, and the owner may also be held accountable (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. Pet food must be stored indoors, in closed sheds, or in bear-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, and other wildlife. When feeding pets, do not leave food out overnight. Pets must be fed indoors or inside kennels so that wild animals do not learn to associate food with your home.
- h. Barbecue grills must be stored indoors, and permanent outdoor barbecue grills shall not be allowed in this subdivision. Keep all portions of the barbecues routinely clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Fencing of lot boundaries is discouraged. If used, rail or smooth wire fences will be erected that are no higher than 48" at the top rail/wire and no lower than 18" at the bottom rail in order to facilitate wildlife movement and help avoid animals becoming ensnared and killed by the fence or injuring themselves when trying to jump the fence.
- j. Compost piles can attract bears and skunks and may not be used.
- k. Beehives can attract bears in this area and are not allowed in this subdivision.
- l. Livestock or domestic animals, such as horses, cattle, pigs, sheep, goats, llama, poultry, etc. (including those kept as 4H projects), are discouraged in this subdivision because they can attract bears, mountain lions, coyotes, and wolves

11. The following statement shall 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 extended underground.
- c. Lots shall be served by contract haul of solid waste.
- d. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
- e.

Waiver of Protest
Participation in Special Improvement District

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

- f. Only Class A and B roofing materials are permitted.
 - g. Defensible space standards as outlined in Appendix G of the Flathead County Subdivision Regulations shall be incorporated around all structures.
 - h. No lot shall be further subdivided.
12. All required improvements shall be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, shall be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
13. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
14. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

CONSIDERATION OF CIP TRANSFER/ FAIRGROUNDS

[10:14:51 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Finance Director Laurel Raymond, Fairgrounds Director Jay Scott, Butch Woolard, Clerk Diana Kile

Discussion was held relative to the transfer of CIP funds for improvements at the Trade Center and Fairgrounds.

Commissioner Lauman made a **motion** to approve the transfer of CIP funds. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

MEETING W/ JIM WATSON & RAY SANDERS RE: FOYS TO BLACKTAIL ISSUES

[10:49:13 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Weed & Parks Director Jed Fisher, Jim Watson, Ray Sanders, Clerk Diana Kile

Jim Watson presented an overview of the Foy's to Blacktail Trail Project; a 117 acre heavily visited County Park. The greater Herron Park recreation area is around 1,500 acres. The Herron Park project's goal is to purchase the surrounding private land for the benefit of the public. There are two parcels: 320 acres belonging to Louisiana Land and Livestock (LLL) directly above the park to the west and 1,000 acres belonging to Plum Creek directly to the south. There is currently a verbal agreement with LLL to purchase their 320 acres for \$2 million. To facilitate this transaction two entities have agreed to assist in bridge funding; The Conservation Fund and the Bibler Foundation. These two groups will purchase the property from LLL and hold it for a period of two years to allow for public fund raising. The non-profit group Foy's to Blacktail will be the primary fund raising entity. If fund raising efforts are unsuccessful then the land will be placed on the market to the highest bidder and presumably developed into a subdivision with no public access. If the LLL land is lost to public access then access to Plum Creek land will be blocked and that land will also probably be sold for development. The grant application deadline is mid-July 2007 and if successful will result in 2009 funding. The Herron Park Project has three phases:

Phase one is complete, it consists of a donated conservation easement on 160 acres of private land owned by the Chase brothers of Great Falls. Their easement allows for the Foy's to Blacktail trail to cross the property and also provides for a two acre building envelope for a forest management research and teaching center.

Phase two is the purchase of the LLL 320 acres.

Phase three is the purchase of Plum Creek land.

The first two phases provide enough matching funds against the Legacy grant application to make it competitive.

The plan calls for the Plum Creek land and half the LLC land (160 acres) to be owned by Flathead Valley Community College. The College will use their forestry and business department to manage these acres to demonstrate active forest management practices to small acreage owners in cooperation with DNRC forestry and MSU extension forestry. The forestland constitutes an endowment for the College; they retain proceeds from logging. The remaining 160 acres of LLL land will belong to and be managed by the County Parks Department. They will have two years to raise \$2 million dollars to secure the LLL 320 acres.

PRELIMINARY PLAT: EAGLE'S CREST SUBDIVISION, PHASES V-IX

11:06:21 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 Eric Giles, Trevor Schaeffer, Dave DeGrandpre, Craig Schaeffer, Frank Stock, Tom Wiggin, Jayme Wolfe, Brent Hall, Simon Stechi, Bruce Young, Jane Eby, Clerk Diana Kile

Giles reviewed the application submitted by Montana Eagle Acquisitions, LLC, with technical assistance from Land Solutions, Morrison Maierle, Inc. and Orion Engineering for preliminary plat approval of Eagle's Crest Phases 5-9; a proposal for 821 residential and commercial units on 739 lots encompassing 1,354 acres. The type of structures will be single-family homes, condominiums units and mixed use office/residential/neighborhood commercial. The neighborhood commercial units are intended to be supporting services such as a grocery store, coffee/bakery, office centers, medical facility, pub/restaurant, day care, golf related commercial services and real estate related services. This phased subdivision will be platted over a period of eight years. This property is located on the west side of Hwy 93 south of Lakeside in the Eagle's Crest Subdivision.

On April 24, 2007 the Lakeside Land Use Advisory Committee reviewed Eagle's Crest Subdivision Phase 5-9.

On May 16, 2007 the Flathead County Planning Board reviewed Eagle's Crest Subdivision Phase 5-9.

Giles stated that since the time of the Planning Boards recommendation of denial, a report has been submitted by the applicant in regards to evidence that was left out of the Subdivision Report. He then stated that every piece of evidence that was left out of the Subdivision Report was submitted the night of the Planning Board meeting, the day before the Planning Board meeting and days after the original Subdivision Report was written. Also stated was that the night of the Planning Board meeting the applicant was able to present all of the evidence and make their arguments before the Planning Board.

Chairman Brenneman asked Giles if he felt the Planning Board was able to comprehend the presentation that was made that night in light of the fact they had no written documents available to them before the meeting that night.

Giles then said that when the new evidence was submitted he doesn't feel the Planning Staff or the Planning Board had adequate time to review the new evidence. Some of this evidence included the additional 200 water and sewer hook-ups, a letter from the Somers Fire Chief and the argument about storm water drainage.

Chairman Brenneman questioned which policy this proposal falls under.

Giles then stated that the proposal is subject to the Growth Policy since it was in the review process.

Giles then reviewed the proposed finding of facts 1-13. It was then stated that if the Commission decides to adopt the Subdivision Report FPP 07-10 and amends the finding of facts to approve Eagle Crest's Subdivision Phase 5-9 the following 35 conditions will be attached. Findings 2 - 4 - 9 - 11 are not mitigated with conditions.

Chairman Brenneman then asked if any of the findings or mitigations proposed was information received that the Planning Board did not see or consider.

Giles then said that all of the findings and conditions are from the review of the Subdivision Regulations, Growth Policy and application and they were all presented with the exception of finding of fact 13.

Chairman Brenneman then asked about condition 11 that says that the 30 percent slope is a problem and that they subsequently received a plat that indicates there are building sites on all of the lots that are not in compliance with the requirement.

Giles said that to show adequate building pads and driveways that anyone can engineer anything on any type of topography, but the guiding document of the Growth Policy states that those areas are inherently unsafe, so what they don't have is guidance on what type of density is appropriate for the area.

Giles said that you can show building pads and driveways on 30 percent slopes with 10 lots, and in this case we have 739 lots, with roughly 200 of them in areas that exceed the slopes.

Chairman Brenneman then asked how many of the 200 lots had inherently unsafe building sites.

Giles then said that with the slopes in the area being 30 percent or greater that they all do.

Commissioner Hall then said that you can see our concern with.

Giles said that nothing in the Subdivision Regulations or the Growth Policy says prohibit development on steep slopes of 30 percent or greater with no density guidance.

Chairman Brenneman said that a rough topography map is being presented to them and questioned if it was their job to look at the map and decide if the lots are okay; that it would be site specific.

Giles said that they could have done that if they had the application pulled and could have gone back with the developer and reviewed the lots and what was being proposed. He then said it was a recommendation from the Planning Office and was not accepted.

Chairman Brenneman said that they are talking about a 40 year plan and with it being rushed through within a number of months that it is counter productive to the process. He then said that is his only concern with the Planning Board deserving to get information quicker than the evening of the contemplation of the proposal.

Commissioner Lauman then said that with the 30 percent slope he doesn't feel that anyone developing that type of property would propose lots of a 30 percent slope with them being un-sellable. That the developer has worked that out to the best of their ability to make the lots buildable.

Commissioner Hall then said that obviously they desire to see what the whole plan looks like and stated that they encourage one phase at a time. He then stated that he doesn't know what to do at this point.

Chairman Brenneman said that with the finding of facts that were presented to them, if they adopt them; it would be difficult to propose approval. He then said that an option would be to send it back to the Planning Board for the applicant to take the time to have a complete package for the Planning Board to consider.

Giles said that a solution would be to have an overall development plan for what is being proposed in the future and to submit phases that are consistent with the development plan.

Commissioner Hall said that he doesn't want to make a decision today that would put the overall project in jeopardy.

Commissioner Lauman said that he did have problems with some of the finding of facts with the access on to Hwy 93 in regards to having to deal with MDOT, high fire hazard area he doesn't feel exists, steep slopes, blocking of migratory routes, open range area and Hwy 93 run off.

Commissioner Hall asked the County Attorney if they could discuss findings with the applicant.

Commissioner Hall then asked Trevor Schaeffer what his feelings were in regards to returning it to the Planning Board.

Trevor Schaeffer said that everything that is before them now was submitted, when requested and complete prior to going to the Planning Boards public hearing.

Chairman Brenneman asked Trevor Schaeffer if he was unwilling to make any considerations or changes beyond what has been submitted to the Commission today. Brenneman then said that a concern of his is the bottleneck situation with the road.

Trevor Schaeffer then said that he is perfectly willing to discuss mitigation.

Chairman Brenneman said that would be the reason to take it back to the Planning Board with concerns of traffic access onto the road with that being new information that the Planning Board could then consider.

Trevor Schaeffer said that the MDOT gets to decide what is safe for Hwy 93 with MDOT telling them what is required with a development that size. He then said that they will pay for whatever recommendations come forward.

Commissioner Hall said that he was uncomfortable imposing conditions and that it needs more time to adequately mitigate the concerns so they will have a project that can go forward and work for the developer without problems. He then said that he feels the problems are mitigateable.

Trevor Schaeffer asked if he could speak to the finding of facts and conditions.

Chairman Brenneman said that if they had a specific question for him that he could respond. He then asked Trevor Schaeffer if he understood why he isn't allowed to give a presentation.

Trevor Schaeffer then said that staff just gave a presentation that was overwhelmingly negative in tone with it being a one sided picture of the project.

Chairman Brenneman said that they could either proceed with findings or go through them to come up with some findings of fact that could be adopted; or they should pursue another course of action which would have to be sending it back to the Planning Board.

Jeff Harris said that since the 80 day review period was up the following day that sending it back to the Planning Board would require concurrence from the applicant for an extension; if they are willing to do that. If they choose not to send it back then the Commission would have to act on it today.

Commissioner Hall proposed that it be sent back to the Planning Board, but not without the concurrence of the applicant.

Chairman Brenneman asked Trevor Schaeffer if he was willing to waive the review date.

Trevor Schaeffer said that he would have to put a specific date on it. He then questioned if the file was closed with nothing new added if it would be necessary to take it back to public review; or could they meet with the Planning Staff and sit down with their view of findings of fact and conditions and the Planning Boards view of findings of fact and conditions and find an agreement/report that they both agree upon. He then said that obviously the reports are different with them both agreeing upon bringing it back to the Commission in a reasonable amount of time with them not introducing any new additional information.

Chairman Brenneman then said that obviously a waiver of the review date would be required and the Commission would delay their consideration while the applicant meets with staff, being careful that no new information is presented or considered. He then said that the liability is going to lie with the applicant, because if there is new information that comes available and if someone wishes to litigate that is what they would go after. The safest way is to go back to the Planning Board and have another public hearing to review the information and have the Planning Board make a recommendation to the Commission; if the applicant wishes to proceed and ask the Commissioners to postpone this for 30-60 days that they would be willing to do so.

Jonathan Smith then said that he didn't think they had ever just sent a subdivision back to staff before; that this would be something new.

Chairman Brenneman said that the Commission is delaying their consideration for 30 - 60 days to give them and staff more time to consider the finding of facts and conditions appropriate for the project.

Trevor Schaeffer then said that they would be willing to work with staff and close the file and not enter any new information if it can be done rapidly.

Jeff Harris then said that as long as no new information is introduced that they would need approval on the record today from the developer stating that he waives his review date.

Commissioner Lauman asked Mr. Schaeffer if 30 days would be acceptable.

Trevor Schaeffer said that he would like to make the time as short as possible and to have a specific date. He then asked if two weeks would be considered.

Commissioner Brenneman then stated that with budget meetings within the county for the next couple of weeks that the agenda is full.

Jeff Harris said that part of the miscommunication came from both sides with planning staff receiving material up until the day of the Planning Board meeting. He then said that there was no opportunity for the public to review the information submitted and didn't give staff any time to review it. He then said that he would not want to continue that trend in that they would need ample time to go through and have meaningful discussions rather than pushing it along.

Commissioner Hall made a **motion** to extend the review date of preliminary plat of Eagle's Crest Subdivision, Phase V-IV to June 29, 2007, with written approval from the developer. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: CONTRACT/ TEMP FLOODPLAIN EMPLOYEE

11:05:30 AM

Members present:

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

Others present:

Assistant Michael Pence, Planner Kirsten Holland, Clerk Diana Kile

Commissioner Hall made a **motion** to approve the contract employee for the Planning & Zoning Office. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF ADOPTION OF RESOLUTION AWARDING SALE OF RSID BONDS

12:07:50 AM

Members present:

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

Others present:

Assistant Michael Pence, County Attorney Jonathan Smith, Greg Lukasik, Denise Hanson, Frank S. Stock, Aaron Rudio, Clerk Diana Kile

County Attorney Jonathan Smith stated that they received 2 bids for the RSID bonds. The bids received were from D A Davidson with the interest of 4.75 and Bitterroot Valley Bank for 4.74.82.

Aaron Rudio reported that D A Davidson worked as the county's financial advisor on the sale of the pool bonds for RSID #139, #140 and #141. Rudio then advised the Commission that they award the bid to Bitterroot Valley Bank as the low bidder.

Commissioner Lauman made a **motion** to approve Resolution #2048A awarding the sale of RSID bonds to Bitterroot Valley Bank and authorized the Chairman to sign. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

Commissioner Lauman made a **motion** to approve the signing of the financial advisor contract with D A Davidson and authorized the Chairman to sign. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

Commissioner Lauman made a **motion** to approve the unconditional award of the bid with the notice to proceed when the money is in the bank. 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); AWARDED THE SALE THEREOF AND APPROVING CERTAIN MATTERS WITH RESPECT THERETO" (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 Commissioners of the County at a regular meeting on June 5, 2007, and that the meeting was duly held by the Board of 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: Brenneman & Lauman; voted against the same: _____; abstained from voting thereon: _____; or were absent.

WITNESS my hand and seal officially this 5th day of June, 2007.

Paula Robinson
Flathead County Clerk and Recorder

By/s/Diana Kile
Diana Kile, Deputy

RESOLUTION NO. 2048 A

RESOLUTION RELATING TO \$508,000 POOLED RURAL SPECIAL IMPROVEMENT DISTRICT BONDS (RURAL SPECIAL IMPROVEMENT DISTRICT NOS. 139, 140, AND 141); AWARDED THE SALE THEREOF AND APPROVING CERTAIN MATTERS WITH RESPECT THERETO

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

1. This Board on May 8, 2007 adopted Resolution No. 2048 providing for the public sale of \$508,000 Pooled Rural Special Improvement District Bonds (Rural Special Improvement District Nos. 139, 140, and 141) (the "Bonds") to finance the costs of certain local improvements to be undertaken in or for the benefit of Rural Special Improvement District Nos. 139, 140, and 141. Notice of the sale has been duly published in accordance with Montana Code Annotated, Sections 7-12-2 172, 7-7-4252 and 17-5-106. Pursuant to the notice of sale, two (2) sealed bids and bids transmitted electronically through Parity™ for the purchase of the Bonds were received at or before the time specified for receipt of bids. The bids have been opened and publicly read and considered, and the purchase price, interest rates and true interest cost under the terms of each bid have been determined.

2. The bid of Bitterroot Valley Bank, of Lolo, Montana, (the "Purchaser"), attached as Exhibit A, to purchase the Bonds of the County, is hereby determined to comply with the notice of sale, and to be the lowest, most reasonable bid for the purchase of the Bonds. The bid of the Purchaser is hereby accepted by the Board and the sale of the Bonds is hereby awarded to the Purchaser. The bid security of the Purchaser shall be retained pending delivery of the payment for the Bonds and the bid security of all other bidders shall be promptly returned.

3. The Chair and the County Clerk and Recorder are hereby authorized and directed to execute on behalf of the County a contract for the sale of the Bonds with the Purchaser.

4. The Preliminary Official Statement relating to the Bonds, dated May 24, 2007, is hereby approved. The officers of the City are hereby authorized and directed to execute such certificates as may be appropriate concerning the accuracy, completeness and sufficiency of the Official Statement and to deliver to the Purchaser within seven business days after the date of adoption of this resolution copies of the Official Statement in accordance with the Notice of Sale, supplemented so as to contain the terms of the Bonds as set forth in this resolution and the reoffering and other information provided by the Purchaser for inclusion in the Official Statement.

5. This Board shall prescribe the form and security for the Bonds in a subsequent resolution.

Passed by the Board of County Commissioners of Flathead County, Montana, this 5th day of June, 2007.

ATTEST: Paula Robinson, Clerk

By:/s/Joseph D. Brenneman

Joseph D. Brenneman, Chairman

By:/s/Diana Kile

Diana Kile, Deputy

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 6, 2007.

WEDNESDAY, JUNE 6, 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,

Mayre Flowers with Citizens for a Better Flathead asked the Commission to look at Subdivision Regulation 4.1.5 that deals with restrictive covenants. She then stated that at the last work session it was suggested that it be deleted. Flowers said that she feels it is important that covenants be part of the subdivision application, so the public can see what is being proposed. Flowers also spoke in regards to covenants being amended by the developer and questioned if there was some way covenants could be conditioned, so that once they are adopted they stay in effect until a certain build out.

Charles Lapp 3230 Columbia Falls Stage Road spoke in regards to off site improvements on roads in the Lakeside development that he is working on. A problem that has come up for him is that he will now have to rebuild driveways, because they don't meet the new standards. He then said that when they are dealing with off site improvements of roads and the idea of just paving the road for dust abatement that the majority of the community is okay with it; as long as everything is fair and directly attributable. Lapp then said that when you get into situations where you have driveways that need to be replaced, then he questions if it attributes to the subdivision; what happens to all the driveways that need to be built to new standard now. When off site improvements are being done he feels the county needs to be willing to stand up beside the developer and tell the homeowners that this is what we want for the good of the neighborhood.

Russ Swindall 310 Bench Drive spoke about the covenants being a good example of something that there are a lot of lawsuits for in the valley; with most of them being poorly written. He then said that people confuse covenants with restrictions or guidelines. To leave covenants totally out of the Subdivision Regulations he feels is an opportunity for the Commission to avoid a lot of legal problems. Swindall said that if the Subdivision Regulations are rushed through in general and they don't stop and fix what needs fixed when a wide open slate of opportunity exists right now to make this work, that he feels they are doing a disservice to the community.

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

AWARD BIDS: DUMP TRUCK & PUP TRAILER/ ROAD DEPT.

[8:34:48 AM](#)

Members present:

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

Others present:

Interim Road Dept Supervisor Guy Foy, Clerk Diana Kile

Commissioner Lauman made a **motion** to approve the bid from I-State Truck Center with the engine upgrade for the Chassis Plow Truck and the Pup Trailer from Rocky Mtn. Truck Center. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

SUBDIVISION REGULATIONS WORKSHOP @ COMMISSIONERS MEETING ROOM

[8:35:26 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, County Attorney Peter Steele, Charles Lapp, Mayre Flowers, Debbie Shoemaker, Russ Swindall, Megan McCrae, Ardis Larsen, Johna Morrison, Erica Wirtala, Clerk Diana Kile

4.1.6 Subdivision Variances (b) Due to the physical surroundings, shape or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self imposed.

- This was discussed again – will check with Peter

4.7.5 Planning Considerations (g) Where a subdivision is traversed by a watercourse drainage way, channel, ditch or stream, an easement or right-of-way shall be required to parallel the lines of the watercourse at a sufficient width to allow for maintenance

- Last sentence changed: Where a subdivision is traversed by a watercourse drainage way, channel, ditch or stream, an easement or right-of-way shall be required to parallel the lines of the watercourse at a sufficient width to allow for maintenance and a vegetative buffer.

4.7.7 Lots (g) Where portions of a subdivision lot abut a river, stream or lake, all abutting areas which contain slopes of 30 percent or greater shall be protected via the placement of a conservation easement or restrictive covenant. The construction of any dwellings, buildings or other structures, road work or major vegetative clearance shall be prohibited.

- Will stay the same

4.7.7 Lots (h) Land within the 100 year floodplain shall not be subdivided for residential or development purposes.

- Added language: Land within the 100 year floodplain shall not be subdivided for building purposes creating a lot or parcel whose only building site lies within the 100 year floodplain. No subdivision of property shall create infrastructure or allow for buildings within the floodway of a 100 year frequency.

4.7.7 Lots (i) No lot shall have an average depth greater than three times its average width unless the average lot width is more than 200 feet and has a minimum lot size of five acres.

- Changed language: No lot shall have an average depth greater than three times its average width unless the average lot width is more than 200 feet.

4.7.7 Lots (k) (i) All lots in unzoned areas shall adhere to the following: Each lot shall have a minimum average size of one acre if not connected to public or municipal water and/ or sewer systems.

- Language changed: No lot shall have a minimum average width of 60 feet.

4.7.9 Payment for Extension of Public Improvements (b) For road improvements the “direct impact” formula shall be based on the ratio of the total proposed subdivision vehicle trips divided by the total of the existing traffic count plus the proposed subdivision vehicle trips. This ratio shall be applied to the length of public or private road(s) to be extended or improved.

- Will stay the same

4.7.10 Floodplain Provisions Land located in the floodway of a flood of 100 year frequency as defined by Title 76, Chapter 5, MCA, or land deemed subject to flooding as delineated by the most current floodplain maps available and adopted by Flathead County, shall not be subdivided for building or residential purposes, or other uses that may increase flood hazard to life, health or property.

- Will be sent back to the Planning Board for consideration in the final Subdivision Regulations

4.7.12 Groundwater Provisions Surface areas where monitored groundwater elevation is four feet or less to the surface, generally from March 15 through June 30, during average precipitation years, shall not be subdivided for residential or development purposes, unless municipal or public sewer service is available

- To be changed to add a sentence at the end: Surface areas where monitored groundwater elevation is four feet or less to the surface, generally from March 15 through June 30, during average precipitation years, shall not be subdivided for residential or development purposes, unless municipal or public sewer service is available or a properly engineered private community waste water treatment system is constructed.

4.7.14 (a) A “storm water management plan” which identifies measures to minimize the potential for surface water pollution is required with the preliminary plat application submittal. The plan shall follow the format of the Montana Department of Environmental Quality and be submitted at the time of preliminary plat application.

- This will be taken out and referred back to the Planning Board

4.7.15 Dust Control and Air Pollution The Commission shall require dust mitigation measures. Effective control of particulate matter (dust) on activities that are part of the subdivision process, including roadway and other required on-site construction, is in the county’s interest and promotes public health and safety. Any sub divider’s activity that disturbs the top layer of soil shall provide dust control applications, including, but not limited to, daily watering of unpaved roadways during actual construction, dust control applications and soil binding agents on un-paved roadways and other site disturbance areas. Subdivision construction operations which leave mud and soil carryout onto paved roadways creating re-entrained dust and/ or hazardous driving conditions shall immediately remove the carryout material from the roadway surface by washing or sweeping.

- Previously sent to the Planning Board for review

4.7.15 (a) A “dust control plan” which identifies measures to minimize fugitive dust during site construction and development activities is required with the preliminary application submittal. The dust control plan shall be submitted with the preliminary plat application and approved by the Planning and Zoning Office.

- Will stay the same

4.7.15 (c) Will be added to state: The “dust control plan” shall also include post-construction dust mitigation measures.

- Added

4.7.17 Access (b) Secondary access roads shall meet standards of the Flathead County Road and Bridge Departments’ “Minimum Standards for Design and Construction Manual”. Secondary access roads shall not function now or in the future as the primary access for an existing or proposed subdivision unless upgraded to current arterial, collector or local road standards pursuant to the Flathead County Road and Bridge Departments’ “Minimum Standards for Design and Construction Manual”.

- Previously referred back to the Planning Board

4.7.17 Access (d) When a new subdivision adjoins unsubdivided land (lands or parcels not created by a recorded subdivision plat) and access to the unsubdivided land must pass through a new subdivision, the subdivider may be required to provide rights-of-way or easements and provide an easement to the adjacent unsubdivided property.

- This requirement may be waived by the Commission when the road department finds that topography or other physical conditions would make it impractical to provide access to adjacent unsubdivided property.
- This requirement may be waived by the Commission if the adjoining property does not require such access and is subject to a conservation easement, deed restriction or other legally restrictive covenant as confirmed by the County Attorney's Office.

- Previously taken out

4.7.17 Access (e) All roads shall be designated as public access easements and shall be shown and described as such on the face of the final plat. All roads within a subdivision shall be maintained by the property owners within the subdivision. The Commission accepts no responsibility for development or maintenance of roads unless accepted by the Commission for maintenance. To ensure a proper maintenance mechanism is in place, an approved road users' agreement and a property owners' association shall be formed which shall require each property owner to bear their pro-rata share for road maintenance within the subdivision and for any integral access roads lying outside the subdivision. Individual lots accessing internal local roads within the subdivision are granted encroachment permits upon the filing of the final plat.

- Previously modified

4.7.19 Roadway Improvements (b) An unpaved road (private or County) that provides access from the subdivision to the paved County or State roadway and the combined average daily traffic volume is 200 daily trips or more will be paved per the methodology identified in Section 4.7.9 and improvements made pursuant to needed improvements identified in the Traffic Impact Study.

- Will stay as is

4.7.21 Walkways and Pedestrian/ Bicycle Paths and Easements Walkways and pedestrian and bicycle paths not less than 10 feet wide, on both sides adjacent to all arterial and public collector roads shall be required to provide connectivity and public access to common facilities such as schools, parks, playgrounds, streams and lakes, or when necessary to provide for pedestrian safety.

- Will stay as is

4.7.23 Sewage Treatment (b) For those lots which range in size from 20 acres to 160 acres in size and Department of Environmental Quality approval on-site sewer and water facilities is not sought prior to final plat review, a disclaimer shall be placed on the face of the final plat stating this plat has not been reviewed or approved for individual sewer or water facilities or for storm water drainage.

- Will take out from first sentence: in size and Department of Environmental Quality approval

4.7.23 Sewage Treatment (c) For lots which range in size from 20 acres to 160 acres, and Department of Environmental Quality approval for on-site sewer and water facilities is not being sought prior to final review, the subdivider shall have demonstrated that there is an adequate water source and at least one area for a septic system and a replacement drain field for each lot.

- This will be deleted

4.7.25 Utilities (c) Utility easements shall be 15 feet wide unless otherwise specified by a utility company or the Commission.

- Will be changed to 10 feet wide

4.7.26 Parkland Dedication (a) (ii) Subdivision lots created greater than five gross acres in size

- Will stay in

4.7.26 Parkland Dedication (c) (ii) The subdivider proposes to dedicate parkland, within the subdivision and maintained by the home owners association in an amount equal to or exceeding the area required pursuant to Subsection (d).

- Will stay in

4.7.26 Parkland Dedication (g) (ii) Where more than 20 percent of site has an average cross slope greater than two to six percent.

- Will be changed to 50 percent

4.7.26 Parkland Dedication (g) (iv) Where the site is less than five acres in size, except in cases of providing public access to water based recreation.

- Will stay in

4.7.26 Parkland Dedication (f) It shall be the responsibility of the subdivider to provide satisfactory evidence of the parkland fair market value of the unimproved land. The subdivider shall provide a current appraisal from a MAI Certified Appraiser, dated no more than six months prior to final plat application submittal, to set the baseline value of the parkland cash donation. The appraisal fee shall be the responsibility of the subdivider. The Planning and Zoning Office shall determine the actual parkland donation based on the baseline appraisal at that time.

- The second sentence will say: The subdivider shall provide a current appraisal from a Certified Appraiser, dated no more than six months prior to final plat application submittal, to set the baseline value of the parkland cash donation.

4.7.27 Weed Control A weed control plan shall be developed and implemented for every subdivision. The Weed Control Plan shall be approved by the County Weed Supervisor and implemented before the Commission will approve the final subdivision plat. The County Weed Supervisor may inspect the subdivision and approve the implementation of the plan. The Weed Control Board may charge an initial fee for plan review and a per lot inspection fee.

- Will stay as is

4.7.28 Fire Protection (b) In subdivisions containing more than five lots, fire protection requirements as deemed necessary by the local fire district or local fire authority shall be incorporated into the subdivision. Such measures may include but are not limited to the provision of adequate on-site water supply/ storage. Typically when on-site storage is required, at a minimum a tanker recharge facility or its equivalent would be required with a capacity based on the ratio of 2,500 gallons per unit/lot. Said facility would be located near a street intersection or cul-de-sac within easy access. Such facility would be maintained entirely and kept in a constant state of readiness by the local subdivision.

- Previously sent back to the Planning Board

4.8.3 Criteria for Review of Exemption (a) Pattern of development

- Peter Steele stated this is covered under Resolution 509D

Table of Contents - Appendices (c) Environmental Assessment

Discussion was held relative to the requirement of an EA.

- No change made

The next scheduled public workshop will be scheduled for Thursday, June 28, 2007, @ 6:00 p.m. Location to be announced.

7:15 a.m. Commissioner Brenneman to FVCC 2007 Community Conversations @ Blake Hall/ SCA 140
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 June 7, 2007.

THURSDAY, JUNE 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.

8:30 a.m. Commissioner Lauman to AOA TAB meeting @ Eagle Transit
8:30 a.m. Commissioner Hall to Flathead on the Move meeting @ Northridge Lutheran Church
12:00 p.m. Commissioner Brenneman to Health Board Retreat @ Hampton Inn

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

FRIDAY, JUNE 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.

NO MEETINGS SCHEDULED

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