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

FINAL PLAT: FLATHEAD RIVER LANDING

[9:15:26 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Eric Giles, Erica Wirtala, Dan Evans, Clerk Kile

Giles reviewed the application submitted by Dan Evans with technical assistance from Sands Surveying for final plat approval of Flathead River Landing; a 3 lot subdivision located on Oldenburg Road. Preliminary plat approval was granted on November 8, 2006, subject to 17 conditions. All conditions have been met or otherwise addressed. The Flathead County Planning and Zoning Office recommends final plat approval.

Commissioner Lauman made a **motion** to approve final plat for Flathead River Landing. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

MEETING W/ CAROLYN VERIN, ET AL, RE: BEAR MOUNTAIN ESTATES

[9:30:22 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Eric Giles, Bill Koenig, Carolyn Verin, Marty Wardle, Thomas Dwight Clark, Bruce A Veerkamp, Ardell McDonald, L. McDonald, Clerk Kile

Carolyn Verin, 408 Deer Creek Road, stated that she was told to come to the meeting last Tuesday in regards to discussion of Bear Mountain Estates; in which she felt there were issues that needed to be addressed before the Commission, before a decision was made. Verin said that she is hopeful they will listen to what she has to say, and that it will impact them regarding future issues for Flathead County. She then said they bought their property four years ago with the idea of quietness and peace, and in that period of time the quiet road they were on has become a dust bowl with constant traffic. Verin then said that she hopes the Commissioners will look at places like Lake Tahoe and other wonderful forest areas that are now no longer a remote peaceful area that people choose to come here for.

Marty Wardle stated that she has been to all of the meetings in regards to Bear Mountain Estates, and that the Planning Board has done a marvelous job in being fair to everyone and representing the public. She then read a letter in regards to Bear Mountain Estates and her concerns with septic systems, poor topography, forest management, wildlife issues, density, infrastructure and road issues. Wardle then spoke of her frustration for the middle class with big money developers making her feel hopeless.

Discussion was then held relative to the developer using Deer Creek Road for construction purposes.

Chairman Brenneman stated that the developer needs to be told that if they are using the road that they will have a problem with final plat; that their preliminary plat can be revoked. He then said that the only reason he was willing to approve Bear Mountain Estates was with the understanding that Deer Creek would not be used.

Commissioner Hall said that this has been a concern and in situations like this, he questions how you would enforce the use of the road.

Jeff Harris said that a photo document would be the best.

Chairman Brenneman said that from the last lot to their subdivision, there should not be a truck in there.

Marty Wardle then spoke about trusting the system and stated that it is breaking down with development ruining the valley in many ways. She then said that with the rampant development taking place that it is affecting our whole county; especially the roads. Wardle then said if each development is being looked at side by side, with them each meeting all their requirements, that the increased density is not okay everywhere; even if they do all the right things they are asked to do.

Chairman Brenneman said that in some ways they do have authority but they have rules to follow, and if the developers meet all the rules and regulations then they ethically and legally cannot turn something down that meets the law.

Eric Giles stated that the suggested limits that Wardle has brought forth, could possibly be addressed through the Lakeside Neighborhood Plan Revision.

Commissioner Hall stated that a consideration of his for approval of Bear Mountain Estates was the Lakeside Community Council voting in favor of recommending approval.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: PLOYHAR ZONE CHANGE/ EVERGREEN & VICINITY ZONING DISTRICT

[10:09:56 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, County Attorney Jonathan Smith, Clerk Kile

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing for Ployhar Zone Change and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by David Ployhar, DBA Summit Saw & Tool, to change the zoning designation in a portion of the Evergreen and Vicinity Zoning District from SAG-10 (Suburban Agricultural) to I-1 (Light Industrial).

The boundaries of the area proposed to be amended from SAG-10 to I-1 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from allowing a district designed to protect and preserve agricultural land for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential friction of uses will be minimized, and providing for estate type residential development, to allowing for light industrial uses and service uses that typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odors, smoke, etc.) which extend beyond the lot lines.

The regulations defining the SAG-10 and I-1 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

The public hearing will be held on the **20th day of August, 2007, at 10:00 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change in the regulations for the described portion of the Evergreen and Vicinity Zoning District.

Written comments are encouraged and will be reviewed by the Commissioners prior to the hearing if received by the Flathead County Commissioners' Office at least three business days prior to the hearing.

DATED this 6th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/ Diana Kile
Diana Kile, Deputy

Publish on August 9 and August 16, 2007

EXHIBIT A

A Zone Change request in the Evergreen Zoning District by David Ployhar, from SAG-10 (Agricultural) to I-1 (Light Industrial). The property is located at 1128 Rose Crossing and can legally be described as Tract 3AB in Section 28, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana. More particularly described as follows:

All that portion of the Northwest Quarter of the Northeast Quarter of Section 28, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

Beginning at the Northwest corner of the said Northwest Quarter of the North 89°45' East, along the North boundary thereof, a distance of 793.50 feet to the West boundary of the Great Northern Railway Right of Way; thence North 89°45' East, along the North boundary of said Northwest Quarter of the Northeast Quarter, a distance of 52.78 feet to the Easterly boundary of said Railway Right of Way; thence

South 18°25' West, along the Easterly boundary of said Railway Right of Way a distance of 30.00 feet, more or less, to the Southerly boundary of the county road and the True Point of Beginning of the property to be herein described; thence North 89°45' East, along the Southerly boundary of said county road. A distance of 352.00 feet to the center line of Spring Creek; thence

Southerly, along the center line of Spring Creek, a distance of 208.00 feet, more or less, to the point which is due South, a distance of 208.00 feet from the Southerly boundary of said county road; thence South 89°45' West, parallel with and 208.00 feet South of the South boundary of said county road, a distance of 382.30 feet to a point on the Easterly boundary of the aforesaid Railway Right of Way; thence

North 18°25' East, along the Easterly boundary of said Railway Right of Way, a distance of 219.50 feet to the Point of Beginning.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD ABANDONMENT #463 (30' HAPPY VALLEY HOMESITES, LOT 529)

[10:11:03 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Kile

Commissioner Lauman made a **motion** to authorize the publication of the Notice of Public Hearing for Road Abandonment #463 and authorized the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

NOTICE OF DISCONTINUANCE
OF PUBLIC ROADWAY NO. 463

Notice is hereby given that the Board of Viewers have reported favorably to the Board of Flathead County Commissioners on the discontinuance of a certain public roadway in Flathead County, Montana, described as follows:

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 30 NORTH, RANGE 22 WEST, PRINCIPAL MERIDIAN, MONTANA, FLATHEAD COUNTY, MONTANA AND BEING A PORTION OF HAPPY VALLEY HOMESITES, ACCORDING TO THE MAP OR PLAT ON FILE WITH THE FLATHEAD COUNTY CLERK AND RECORDER'S OFFICE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 529 OF SAID HAPPY VALLEY HOMESITES AND WHICH POINT IS THE TRUE POINT OF BEGINNING.

THENCE S89°19'E, ON AND ALONG THE SOUTH BOUNDARY OF SAID LOT 529, A DISTANCE OF 170.01 FEET TO THE SOUTHEAST CORNER OF SAID LOT 529; THENCE S00°14'W, AND LEAVING SAID SOUTH BOUNDARY OF LOT 529, A DISTANCE OF 30.00 FEET TO A POINT AND WHICH POINT LIES ON THE SOUTH BOUNDARY OF SAID HAPPY VALLEY HOMESITES; THENCE N89°19'W, ON AND ALONG SAID SOUTH BOUNDARY OF HAPPY VALLEY HOMESITES, A DISTANCE OF 170.01 FEET TO A POINT; THENCE N00°14'E, AND LEAVING SAID SOUTH BOUNDARY OF HAPPY VALLEY, A DISTANCE OF 30.00 FEET TO THE TRUE POINT OF BEGINNING, THIS TRACT CONTAINS 0.117 ACRE AND SUBJECT TO AND TOGETHER WITH ALL APPURTENANT EASEMENTS OF RECORD.

Notice is hereby given to the petitioners or landowners as disclosed by the last assessment roll of Flathead County, owning land abutting the roadway described above and being considered for abandonment.

The hearing on this petition for abandonment is set for Wednesday, August 22, 2007, at 10:30 A.M. in the County Commissioners' Office, West Annex, Courthouse, Kalispell, Montana.

DATED this 6th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

PAULA ROBINSON,
CLERK AND RECORDER

By: /s/Diana Kile
Diana Kile, Deputy

Publish on August 9 and August 16, 2007

CONSIDERATION OF ADOPTION OF RESOLUTION: RATIFY FIRE EMERGENCY

[10:11:28 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, County Attorney Jonathan Smith, Clerk Kile

Jonathan Smith stated that the document was signed on Friday for emergency evacuation over the weekend.

Commissioner Hall made a **motion** to ratify fire emergency Resolution 2081A. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

RESOLUTION NO. 2081 A

WHEREAS, due to hot and dry conditions, the fire danger in Flathead County is in the extreme category and the weather forecasts for Flathead County indicate little relief from the very hot and dry conditions;

WHEREAS, due to the hot and dry weather and the fire occurrences in Montana, the Governor of the State of Montana declared a state of emergency in all of Montana, including Flathead County, on July 16, 2007;

WHEREAS, fire occurrences in Northwestern Montana are sufficiently numerous that the Interagency Fire Committee recommended, and the Commissioners issued, Stage II Restrictions for all of Flathead County and declared a fire emergency in Flathead County on July 30, 2007;

WHEREAS, the Brush Creek Fire is threatening populated areas such that evacuations may be required; and

WHEREAS, the dry conditions and the new fire starts in the last two days indicate that other fires may increase to the extent that evacuations are necessary.

NOW, THEREFORE IT IS HEREBY RESOLVED, that the emergency declared pursuant to Section 10-3-402, M.C.A., because hot and dry conditions have resulted in the fire danger in Flathead County moving to the extreme category, shall remain in effect.

BE IT FURTHER RESOLVED that the Incident Commander of the Brush Creek Fire with respect to that fire, or the Flathead County Sheriff, may direct and compel the evacuation of all or part of the population from any emergency area within Flathead County when either of them deems it necessary for the preservation of life or for other emergency mitigation, response, or recovery, and may control the ingress and egress to and from any emergency area, the movement of persons within that area, and the occupancy of premises therein.

BE IT FURTHER RESOLVED, that copies of this resolution shall be filed with the County Clerk and Recorder, County Assessor and the Montana Disaster and Emergency Services Division in Helena, Montana.

Dated this 2nd day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: _____
Dale W. Lauman, Member

By: /s/Diana Kile
Diana Kile, Deputy

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

DOCUMENT FOR SIGNATURE: EXTENSION SERVICES AGREEMENT/ MSU

[10:12:55 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Kile

Commissioner Lauman made a **motion** to approve the extension services agreement for MSU. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF EXTENSION: HARVEST VIEW SUBDIVISION

[10:15:52 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, Brooke Howard, Clerk Kile

Commissioner Hall made a **motion** to approve the request from Harvest View Subdivision for a one year extension. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF EXTENSION: SPRING PRAIRIE ESTATES

[10:17:14 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, Clerk Kile

Commissioner Lauman made a **motion** to approve a one year extension for Spring Prairie Estates. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #08-07-3-31-023-0

[10:17:54 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Kile

Commissioner Hall made a **motion** to approve DPHHS Contract #08-07-3-31-023-0 and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF EXTENSION REQUEST & TAKE ACTION: MOUNTAIN VIEW R.V. PARK

[10:20:03 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 Andrew Haegemier, Clerk Kile

Discussion was held relative to an extension for Mountain View R.V. Park, in which the R V Parks extension expired on September 12, 2006. A one year extension was granted from September 12, 2005, until September 12, 2006.

Chairman Brenneman stated that they don't have the authority to grant an extension again.

Jeff Harris said that a notice was sent to the applicant on July 10, 2006, from the Planning & Zoning Office that stated if they didn't hear back from them within a couple of weeks the file would be terminated. The applicants were also sent letters last year, in which they did not respond.

Commissioner Hall stated that he did not want to see the applicant have to go through the whole process again, and would like to have more information as to why he has not responded.

Chairman Brenneman made a **motion** to deny the extension request for Mountain View RV Park. Motion **dies** for lack of a **second**.

Commissioner Hall made a **motion** to continue.

Motion **dies** for lack of a **second**.

Jeff Harris then said that statute only gives them a one year extension after preliminary plat, and that the end of 4 years would have been September 2006.

Commissioner Lauman made a **motion** to not grant the extension for Mountain View RV Park. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

FINAL PLAT: GOOSE MEADOWS, RESUBDIVISION OF LOT 6

[10:33:42 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Planner Andrew Hagemier, Brooke Howard, Sarah Arrigoni, Clerk Kile

Hagemier reviewed the application submitted by Kathryn B. Edwards with technical assistance from Montana Mapping Associates for final plat approval of Goose Meadows Re-Subdivision Lot 6; a subdivision creating four residential lots at 655 Farm Road. Preliminary plat approval was granted on June 19, 2006, subject to 17 conditions. The Flathead County Planning and Zoning Office recommends final plat approval.

Commissioner Lauman made a **motion** to approve Goose Meadows, Resubdivision of Lot 6. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

FLATHEAD COUNTY FIRE SERVICE AREA AGREEMENT

[10:37:42 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Kile

Commissioner Hall made a **motion** to approve the Flathead County Fire Service Area agreement with Rod Dresbach and Gary Mahugh. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

TAX REFUND: DIESEL

[10:46:04 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Kile

Commissioner Lauman made a **motion** to deny the tax refund for Diesel. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

BOARD APPOINTMENTS: FLATHEAD COUNTY MUSEUM BOARD

[10:54:24 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Kile

Commissioner Hall made a **motion** to appoint Isabelle Matson and Joseph Ruffolo to the 2 year term ending 12/31/09 and Kevin McCready to the term ending 12/31/2008. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

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

[11:02:34 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Interim Road Department Supervisor Guy Foy, Weed & Parks Director Jed Fisher, Clerk Kile

Foy reported that the County Corner article from the Road Department is prepared and ready to be published. Also discussed was McMannamy Draw in regards to a letter sent to F H Stoltz Lumber from the Road Department. He then reported on the asphalt grinder work, Red Bridge work, chip sealing, overlay projects, grievance issues that have been worked out, dust control policies and the posting of speed limit signs on the North Fork Road. Foy then stated that they will be moving the crusher to the Four Corners Pit and that they have been working on district maps for winter work in regards to organizing manpower.

MEETING W/ ALEX HOGLE/ PLANNING & ZONING OFFICE RE: KILA BIKE PATH

[11:30:08 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, County Attorney Jonathan Smith, Weed & Parks Director Jed Fisher, Solid Waste Director Dave Prunty, Planning & Zoning Director Jeff Harris, Planner Alex Hogle, Val Parsons, Horace Sanders, Helen Pilling, Breta Duncan, Mark Crowley, Clerk Kile

Alex Hogle presented the Commission with information in regards to the Kila bike path for an amendment to the project agreement that would combine Safe Routes to School funds with CTEP money. The project amendment requires Commissioner approval.

General discussion was then held relative to the Rails to Trails group doing base work south of the green box site, almost to Smith Lake Road within the county right of way. Hogle stated that there is a protocol for engineering designs in regards to the environmental that cannot be by-passed, if the project is going to be under CTEP.

Mark Crowley said that he recently secured a Rails to Trails right of way and also spoke about flood plain issues. He then said that a portion of the path as well as the two bridges are separate projects. Crowley then said that the site where they are building the path is the original county road with the rail road grade being up high.

Helen Pilling stated that they have had letters of support from Fish and Wildlife, and that the issue of wetlands was not questioned.

Mark Crowley said that he would continue working with the Corp of Engineers.

Hogle then said that the wetlands and placement of the road would all be addressed in the engineering that is required with CTEP participation.

Discussion was then held relative to the green box sites in regards to possibly closing the site to moving it.

Hogle clarified that the request today was to incorporate the Kila school segment into the Kila Path southwest CTEP project. The SRTS funding for \$50,000 likely would not be enough to bring to completion the project and that they would like to make one project environmental and one manual.

Chairman Brenneman then clarified that this would just be merging the two funds together, that it would not involve any different funding or re-allocating of funds.

Hogle then said that it would be merging the funds, but would require some additional funding from CTEP.

Mark Crowley spoke about the phases the trail has gone through and said that it is an example of how you can use different funding sources to get things done. He then said that grants were acquired for culverts and after they were in place, they had a gravel path that started to get used. Originally a decade ago this was considered a massive project that was broken up into a number of phases, which have been done through CTEP and Safe Routes to Schools, so if they can continue to move forward using the funds they have available through other sources to get preliminary work done, then every little piece allows them to get closer to a unified project.

8:00 a.m. Weed & Parks Board meeting @ Weed & Parks Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on August 7, 2007.

TUESDAY, AUGUST 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.

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

Jim Etzler, 1600 Whalebone Drive, commented that in May of 2006 a submittal package for the Osprey Ridge project was presented to the Planning Office. A presentation was given to the Lakeside City Council after a suggestion from the Planning Office to do so; to explain to them what their intentions were. They continued with the process and they were never issued a letter of sufficiency. The Planning Director requested that they aggregate all of the parcels from their previous subdivision, which was a five parcel with a remainder; it was demanded that it be aggregated back into one parcel before a letter of sufficiency would be given. Etzler then said there is no legal requirement to do so. Over the course of the next six months he spent several thousands in attorney fees and they were no where; with the Planning Office still not accepting their package and giving a letter of sufficiency. After six months they became aware of state statutory exemptions, and at that point they recorded their condo documents according to the exemptions and withdrew their submittal. In December 2006, a letter was posted in the Plat Room that lists deeds or contracts that should not be recorded. He then said that it was a defamatory letter and that they can't do anything with their property now. Etzler then said that he went into the Courthouse and spoke to Paula Robinson and Vicki Gallo to ask who authorized the posting of the letter, and asked for written documentation for it, in which he was told it was verbal from the County Attorney. After going back and forth for several months paying their attorney and getting no response from the County Attorney he filed an intent with the county. He then said that he wants to make it known and that there seems to be a lot of confusion that they have pulled their submittal for no specific reason, and that they have been held up illegally by the Planning Office. Also stated was this spring the County Attorney verbally instructed the GIS Office to remove all of the information from the GIS site in regards to his property. He then said that he was the only property owner that was not notified of the zoning proposal on his property. He then added that the Planning Office told him he would have adequate time to speak at the public hearing on the zoning proposal, and at the meeting Mr. Cross and B J Grieve discussed the issue for three minutes. Etzler then presented a map to the Commission that depicts the Spring Creek zoning area, and stated that the zoning does not apply to 85 percent of the people within the district, with their's being the main piece of property.

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

QUARTERLY INVESTMENT REPORT W/ ADELE KRANTZ, TREASURER

[9:05:40 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall

Members absent:

Commissioner Dale W. Lauman

Others present:

Treasurer Adele Krantz, Clerk Kile

Krantz presented the Commission with statistics on the STIP rate, sweep account rate and credit cards. She also reported that she is looking into going out for bids on tax bills this year, with the cost of mailing tax bills for 2006 being \$17,600.00.

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

[9:14:33 AM](#)

Members present:
Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Members absent:
Commissioner Dale W. Lauman
Others present:
I.T. Director Vicki Saxby, Clerk Kile

Saxby reported that the I.T. Department is still working on web enhancements and that presentation's from the RFP's that were sent out would be scheduled soon. She then said that they can build a server now in approximately 15 minutes verses the five hours that it use to take. Also reported were problems with the e-mail server implementation, fire wall software that needs upgraded, county wide badge system, programming projects and phone system requirements for the fires.

FINAL PLAT: GREAT NORTHERN ACRES

[9:30:56 AM](#)
Members present:
Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Members absent:
Commissioner Dale W. Lauman
Others present:
Assistant Planning & Zoning Director B J Grieve, Planner Alex Hogle, Clerk Kile

Hogle reviewed the application submitted by Steven Johnson with technical assistance from Larsen Engineering for final plat approval of Great Northern Acres; a subdivision creating 4 residential lots. Preliminary plat approval was granted on January 11, 2007, subject to 16 conditions. All conditions have been met or otherwise addressed.

Commissioner Hall made a **motion** to approve final plat of Great Northern Acres. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Hall. Motion carried by quorum.

CONTINUATION OF CONSIDERATION OF RESOLUTION OF INTENT TO AUTHORIZE LEVIES: RSID #139, #140, #141 & #142 AND AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: RSID #139, #140, #141 & #142

[9:49:07 AM](#)
Members present:
Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Members absent:
Commissioner Dale W. Lauman
Others present:
County Attorney Jonathan Smith, Clerk Kile

Commissioner Hall made a **motion** to approve Resolution of Intent #1956C, #1957C, #1958C, #1971C. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing, allowing the clerk to sign. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Hall. Motion carried by quorum.

CERTIFICATE AS TO RESOLUTION

I, the undersigned, being the duly qualified and acting recording officer of the County of Flathead, Montana (the "County"), hereby certify that the attached resolution is a true copy of Resolution No. 1956 C, entitled: "RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT No. 139; PRELIMINARY LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS" (the "Resolution"), on file in the original records of the County in my legal custody; that the Resolution was duly adopted by the Board of County Commissioners of the County at a meeting on August 7, 2007, and that the meeting was duly held by the Board of County Commissioners and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

WITNESS my hand officially this 7th day of August, 2007.

Paula Robinson
Flathead County Clerk and Recorder

By: /s/Diana Kile
Diana Kile, Deputy



RESOLUTION NO. 1956 C

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT No. 139; PRELIMINARY LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS

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

Section 1. The District; the Improvements. The County has created a Rural Special Improvement district (the "District") pursuant to Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), denominated Rural Special Improvement District No. 139 (the "District"), and undertaken certain local improvements (the "Improvements") to benefit property located therein. The Improvements have been or, by the conclusion of the current construction season, will be substantially completed and the total costs of the Improvements to be paid with proceeds of the Bonds are estimated to be \$174,473, including all incidental costs.

Section 2. The Bonds. The County has pursuant to the Act issued its Rural Special Improvement district bonds drawn on the District, denominated "Rural Special Improvement District No. 139 Bonds," in the original aggregate principal amount of \$174,473 (the "Bonds"), to finance costs, including incidental costs, of the Improvements. The Bonds are payable primarily from special assessments to be levied against property in the District.

Section 3. Method of Assessment. (a) Pursuant to Resolution No. 1956A, adopted by this Board on August 16, 2006, and which constitutes the resolution of intention to create the District, this Board determined to levy special assessments to pay the costs of the Improvements on the basis or bases therein provided as authorized by the Act.

(b) This Board hereby ratifies and confirms that the assessment of costs of the specific Improvements against the properties benefitted thereby as prescribed by the resolution of intention are equitable and in proportion to and not exceeding the special benefits derived from the respective Improvements by the lots, tracts and parcels to be assessed therefor within the District, and the special assessments authorized by this resolution are in accordance with the methods and do not exceed the amounts prescribed by the resolution of intention.

Section 4. Proposed Levy of Assessments. The special assessments for the costs of the Improvements shall be levied and assessed against properties in the District in accordance with the method of assessments referred to in Section 3. Such assessments shall be payable over a term not exceeding 15 years, each in substantially equal semiannual payments of principal and interest. Property owners shall have the right to prepay the special assessments as provided by law.

The special assessments shall bear interest from June 15, 2007 until paid at an annual rate equal to the Interest Rate (as hereinafter defined), as such may change from time to time, plus penalties and interest for delinquent installments as provided by law. As used herein, "Interest Rate" means, as of the date of determination, the sum of (i) the average interest rate payable on the Bonds then outstanding, plus (ii) one-half of one percent (0.50%) per annum. The Interest Rate shall be determined in August of each fiscal year so long any Bonds are outstanding and shall apply to the outstanding installments of the special assessments not delinquent. If no Bonds are outstanding, but special assessments remain unpaid and are not delinquent, the Interest Rate shall be equal to the Interest Rate as most recently determined. The initial Interest Rate for the fiscal year ending June 30, 2008 shall be 4.989456 % per annum.

Exhibit A to this Resolution (which is hereby incorporated herein and made a part hereof) contains a description of each lot, tract or parcel of land to be assessed, the name of the owner, if known, the total amount of the special assessment levied against each lot, tract or parcel, the amount of each partial payment of the special assessment, and the day when each such partial payment shall become delinquent (the "Assessment Roll").

The Assessment Roll is preliminary and is subject to consideration by this Board of the objections, if any, from owners of property in the District following the public hearing provided for in Section 7.

Section 5. Filing of Resolution. This resolution shall be kept on file in the office of the County Clerk and Recorder and shall be open to public inspection.

Section 6. Notice of Proposed Levy of Assessments. The County Clerk and Recorder is hereby authorized and directed to cause a copy of the notice of the passage of this resolution, substantially in the form of Exhibit B hereto (which is hereby incorporated herein and made a part hereof), (i) to be published twice in a newspaper meeting the requirements of Montana Code Annotated, Section 7-1-2121, with not less than six days between each publication before the date of the public hearing provided for in Section 7, (ii) to be mailed to the owner of each lot, tract or parcel of land to be assessed (to be determined from the last completed assessment roll for state, county, and school district taxes), on or before the same day such notice is first published; and (iii) to be mailed to such other persons or entities known by the County Clerk and Recorder to have an ownership interest in such lots, tracts or parcels (including, without limitation, mortgagees and vendees under contracts of deed), on or before the same day such notice is first published.

Section 7. Public Hearing; Objections. This Board shall meet on Monday, the 27th day of August, 2007, at 9:30 a.m., in Courthouse, West Annex, at 800 South Main, in Kalispell, Montana, for the purpose of conducting a public hearing on the levying and assessment of the special assessments in the District and considering the objections, if any, of the property owners to the levying and assessment of the special assessments.

ADOPTED by the Board of County Commissioners of the County of Flathead County, Montana, this 7th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

By: _____
Dale W. Lauman, Member

ATTEST:

Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Exhibit A
RSID No. 139 - Sandy Hill Lane

| Lot, Tract or Parcel in Section 16, Tn 30 N., Rg. 21 W. | Owner | Total Assessment | November 30, * 2007 Payment | May 31, 2008* Payment |
|---|--|---------------------|--------------------------------------|-----------------------------|
| 1DH | Campbell, Janice L | \$8,525.67 | \$422.12 | \$279.44 |
| 1DG | Nelson, Gary | \$8,525.67 | \$422.12 | \$279.44 |
| 1DF | Hoefle, Steven R & Betty | \$8,525.67 | \$422.12 | \$279.44 |
| 1D | Rost Living Trust | \$8,525.67 | \$422.12 | \$279.44 |
| 1DC | Scott, Calvin Leonard | \$8,525.67 | \$422.12 | \$279.44 |
| 14C | Pieti, John M | \$8,525.67 | \$422.12 | \$279.44 |
| 14CA | White, Sean P & Kimberly A | \$8,525.67 | \$422.12 | \$279.44 |
| Big Sky Sub Lot 2 | Sagen, Daniel L | \$8,525.67 | \$422.12 | \$279.44 |
| Big Sky Sub Lot 1 | McCrea, Thomas S & Carlene D | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAAA | Brenchley Properties | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAAAB | Schwegel, Naomi R | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAAAA | Schwegel, Naomi R | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAAB | Sandman, Paula A Schoknecht Robert L Sandman | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAAG | Witbrod Sr, Fred J | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAAGA | Simpson, Terry Lee & Donna | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAAC | Jumer, Roxanne H | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAAD | Kastner, Gale M Nelson, Gary M & Jeffrey | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAA AF | Drummond | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAA AE | Frankino, John D & Mary M Swan | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAB | Gwynn, Michael C Evans, Gene Loring & Elizabeth | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAABA | Jean Rohan, Brendan P & Rebecca E | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAD | Berg | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAA | Welzenbach, Anthony C AKA: Anthony Clark | \$8,525.67 | \$422.12 | \$279.44 |
| 14CAAC | Marshall, Patrick M & Carol A | \$8,525.67 | \$422.12 | \$279.44 |
| 1B | Rost Living Trust, Carroll J | \$8,525.67 | \$422.12 | \$279.44 |
| 7A | Hansen, Patricia G | \$8,525.67 | \$422.12 | \$279.44 |
| 1BC | Bresnan Communications, LLC Teleprompter Corp | \$8,525.67 | \$422.12 | \$279.44 |
| SandyHill Tracts 1 | Rost Living Trust, Carroll J | \$8,525.67 | \$422.12 | \$279.44 |
| SandyHill Tracts 2 | Rost Living Trust, Carroll J | \$8,525.67 | \$422.12 | \$279.44 |
| Totals | | \$247,244.43 | \$12,241.48 | \$8,103.76 |

Payments will be due on November 30, 2007 and May 31, 2008, and each November 30 and May 31 through November 30, 2021 and May 31, 2022. Payments will become delinquent, if not paid, on December 1 and June 1 of each year.

* In each fiscal year, the then outstanding principal amount of assessment will be reamortized in equal semi-annual installments over the term of the assessments at an interest rate equal to the average interest on the outstanding bonds plus one half of one percent per annum.

EXHIBIT B

NOTICE OF PROPOSED LEVY OF SPECIAL ASSESSMENTS IN
RURAL SPECIAL IMPROVEMENT DISTRICT No. 139

FLATHEAD COUNTY, MONTANA

NOTICE IS HEREBY GIVEN that on August 7, 2007, the Board of County Commissioners of the County of Flathead, Montana (the "County"), adopted a resolution proposing to levy and assess special assessments against benefitted property in Rural Special Improvement District No. 139 in the County (the "District") for the purpose of financing the costs of certain local improvements and paying costs incidental thereto.

A complete copy of the resolution, which includes the proposed assessment roll and the amount of each special assessment, is on file with the County Clerk and Recorder and is available for public inspection.

On Monday, the 27th day of August, 2007, at 9:30 a.m., at the Courthouse, West Annex, 800 South Main, in Kalispell, Montana, the Board of County Commissioners will conduct a public hearing and pass upon all objections, whether made orally or in writing, to the proposed levy of the special assessments.

Further information regarding the special assessments or other matters in respect thereof may be obtained from the Commissioners' Office at 800 South Main, Kalispell, Montana, or by telephone at 406/758-5503.

Dated: August 7, 2007.

Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on August 14 and August 21, 2007.

CERTIFICATE AS TO RESOLUTION

I, the undersigned, being the duly qualified and acting recording officer of the County of Flathead, Montana (the "County"), hereby certify that the attached resolution is a true copy of Resolution No. 1957 C, entitled: "RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT No. 140; PRELIMINARY LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS" (the "Resolution"), on file in the original records of the County in my legal custody; that the Resolution was duly adopted by the Board of County Commissioners of the County at a meeting on August 7, 2007, and that the meeting was duly held by the Board of County Commissioners and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

WITNESS my hand officially this 7th day of August, 2007.

Paula Robinson
Flathead County Clerk and Recorder

By: /s/Diana Kile
Diana Kile, Deputy



RESOLUTION NO. 1957C

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT No. 140; PRELIMINARY LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS

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

Section 1. The District; the Improvements. The County has created a Rural Special Improvement district (the "District") pursuant to Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), denominated Rural Special Improvement District No. 140 (the "District"), and undertaken certain local improvements (the "Improvements") to benefit property located therein. The Improvements have been or, by the conclusion of the current construction season, will be substantially completed and the total costs of the Improvements to be paid with proceeds of the Bonds are estimated to be \$152,729, including all incidental costs.

Section 2. The Bonds. The County has pursuant to the Act issued its Rural Special Improvement district bonds drawn on the District, denominated "Rural Special Improvement District No. 140 Bonds," in the original aggregate principal amount of \$152,729 (the "Bonds"), to finance costs, including incidental costs, of the Improvements. The Bonds are payable primarily from special assessments to be levied against property in the District.

Section 3. Method of Assessment. (a) Pursuant to Resolution No. 1957A, adopted by this Board on August 16, 2006, and which constitutes the resolution of intention to create the District, this Board determined to levy special assessments to pay the costs of the Improvements on the basis or bases therein provided as authorized by the Act.

(b) This Board hereby ratifies and confirms that the assessment of costs of the specific Improvements against the properties benefitted thereby as prescribed by the resolution of intention are equitable and in proportion to and not exceeding the special benefits derived from the respective Improvements by the lots, tracts and parcels to be assessed therefor within the District, and the special assessments authorized by this resolution are in accordance with the methods and do not exceed the amounts prescribed by the resolution of intention.

Section 4. Proposed Levy of Assessments. The special assessments for the costs of the Improvements shall be levied and assessed against properties in the District in accordance with the method of assessments referred to in Section 3. Such assessments shall be payable over a term not exceeding 20 years, each in substantially equal semiannual payments of principal and interest. Property owners shall have the right to prepay the special assessments as provided by law.

The special assessments shall bear interest from June 15, 2007 until paid at an annual rate equal to the Interest Rate (as hereinafter defined), as such may change from time to time, plus penalties and interest for delinquent

installments as provided by law. As used herein, "Interest Rate" means, as of the date of determination, the sum of (i) the average interest rate payable on the Bonds then outstanding, plus (ii) one-half of one percent (0.50%) per annum. The Interest Rate shall be determined in August of each fiscal year so long any Bonds are outstanding and shall apply to the outstanding installments of the special assessments not delinquent. If no Bonds are outstanding, but special assessments remain unpaid and are not delinquent, the Interest Rate shall be equal to the Interest Rate as most recently determined. The initial Interest Rate for the fiscal year ending June 30, 2008 shall be 4.989456 % per annum.

Exhibit A to this Resolution (which is hereby incorporated herein and made a part hereof) contains a description of each lot, tract or parcel of land to be assessed, the name of the owner, if known, the total amount of the special assessment levied against each lot, tract or parcel, the amount of each partial payment of the special assessment, and the day when each such partial payment shall become delinquent (the "Assessment Roll").

The Assessment Roll is preliminary and is subject to consideration by this Board of the objections, if any, from owners of property in the District following the public hearing provided for in Section 7.

Section 5. Filing of Resolution. This resolution shall be kept on file in the office of the County Clerk and Recorder and shall be open to public inspection.

Section 6. Notice of Proposed Levy of Assessments. The County Clerk and Recorder is hereby authorized and directed to cause a copy of the notice of the passage of this resolution, substantially in the form of Exhibit B hereto (which is hereby incorporated herein and made a part hereof), (i) to be published twice in a newspaper meeting the requirements of Montana Code Annotated, Section 7-1-2121, with not less than six days between each publication before the date of the public hearing provided for in Section 7, (ii) to be mailed to the owner of each lot, tract or parcel of land to be assessed (to be determined from the last completed assessment roll for state, county, and school district taxes), on or before the same day such notice is first published; and (iii) to be mailed to such other persons or entities known by the County Clerk and Recorder to have an ownership interest in such lots, tracts or parcels (including, without limitation, mortgagees and vendees under contracts of deed), on or before the same day such notice is first published.

Section 7. Public Hearing; Objections. This Board shall meet on Monday, the 27th day of August, 2007, at 9:30 a.m., in Courthouse, West Annex, at 800 South Main, in Kalispell, Montana, for the purpose of conducting a public hearing on the levying and assessment of the special assessments in the District and considering the objections, if any, of the property owners to the levying and assessment of the special assessments.

ADOPTED by the Board of County Commissioners of the County of Flathead County, Montana, this 7th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

By: _____
Dale W. Lauman, Member

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Exhibit A
RSID No. 140 - Shady Lane

| Lot, Tract or Parcel in Section 35, Tn. 29 N, Rg. 19 W. | Owner | Assessment | Nov. 30, 2007* 2007 Payment | May 31, 2008* Payment |
|---|--------------------------------------|-------------|--------------------------------|--------------------------|
| 2719X35-XXX-RDS-1 | Tidwell , Bill J & Phyllis Martineau | \$25,545.32 | \$1,018.10 | \$628.90 |
| 2719X35-XXX-RDS-2 | Tidwell , Bill J & Phyllis Martineau | | | |
| 2719X35-XXX-RDS-3 | McAllister III, WW | \$10,830.93 | \$431.66 | \$266.65 |
| 2719X35-XXX-RDS-4 | Snyder 2004 Trust, J Dudley | \$11,694.87 | \$466.09 | \$287.93 |
| 2719X35-XXX-RDS-5 | KEJO Co. | \$11,002.72 | \$438.50 | \$270.88 |
| 2719X35-XXX-RDS-6 | Amini, Rex & Debra | | | |
| 2719X35-XXX-RDS-7B | Amini, Rex & Debra | \$14,206.94 | \$566.21 | \$349.76 |
| 2719X35-XXX-RDS-7A | Johnson Trust, Gregory D | \$8,919.59 | \$355.49 | \$219.60 |
| 2719X35-XXX-RDS-8 | Dodge Living Trust, Deborah Diane | \$10,775.07 | \$429.44 | \$265.27 |
| 2719X35-XXX-RDS-9 | December Trust Agreement | \$11,068.94 | \$441.14 | \$272.52 |
| 2719X35-XXX-RDS-10 | Mackinlay Living Trust | \$10,949.95 | \$436.41 | \$269.58 |
| 2719X35-XXX-RDS-11 | Seay, Donnie B & Nancy C | \$11,187.95 | \$445.88 | \$275.44 |
| 2719X35-XXX-RDS-12 | Richmond 1998 Trust, Cheryl L | \$11,545.18 | \$460.12 | \$284.24 |
| 2719X35-XXX-RDS-13 | Powell Trust, Margaret R | \$11,902.24 | \$474.36 | \$293.03 |
| 2719X35-XXX-RDS-14 | Powell Trust, Margaret R | \$14,957.39 | \$596.12 | \$368.25 |
| 2719X35-XXX-RDS-15 | Mick Allenson Nancy Viau | \$16,437.54 | \$655.11 | \$404.69 |
| 2719X35-XXX-RDS-16 | Lindsay, Le Mar J & Mildred H | \$15,316.85 | \$610.44 | \$377.09 |
| 2719X35-XXX-RDS-17 | Majerus, Douglas & Christina | \$4,519.98 | \$180.15 | \$111.28 |
| 2719X35-XXX-RDS-18&ABNDRD | Skillman, David | \$13,586.13 | \$541.48 | \$334.48 |
| 2719X35-XXX-3 | Skillman, David | \$3,319.48 | \$132.30 | \$81.72 |
| 2719X35-XXX-3D | Powell, Thomas D | \$1,029.16 | \$41.01 | \$25.34 |
| 2719X35-XXX-3BB | Powell, Thomas D | | | |
| 2719X35-XXX-3BD | Lenox, Cheryl A Gage, Debra G | \$4,036.20 | \$160.87 | \$99.37 |

| | | | | |
|-------------------|---------------------------------|---------------------|-------------------|-------------------|
| 2719X35-XXX-3BF | Manning, Jerry E Manning, Jay B | \$6,677.86 | \$266.13 | \$164.41 |
| 2719X35-XXX-SVH-1 | Richter, David N & Judy L | \$4,113.36 | \$163.93 | \$101.27 |
| 2719X35-XXX-SVH-2 | Kleiv, Raymond L & Karen M | \$4,113.36 | \$163.93 | \$101.27 |
| | Totals | \$237,737.01 | \$9,474.87 | \$5,852.97 |

Payments will be due on November 30, 2007 and May 31, 2008, and each November 30 and May 31 through November 30, 2026 and May 31, 2027. Payments will become delinquent, if not paid, on December 1 and June 1 of each year.

* In each fiscal year, the then outstanding principal amount of assessment will be reamortized in equal semi-annual installments over the term of the assessments at an interest rate equal to the average interest on the outstanding bonds plus one half of one percent per annum.

EXHIBIT B

NOTICE OF PROPOSED LEVY OF SPECIAL ASSESSMENTS IN
RURAL SPECIAL IMPROVEMENT DISTRICT No. 140

FLATHEAD COUNTY, MONTANA

NOTICE IS HEREBY GIVEN that on August 7, 2007, the Board of County Commissioners of the County of Flathead, Montana (the "County"), adopted a resolution proposing to levy and assess special assessments against benefitted property in Rural Special Improvement District No. 140 in the County (the "District") for the purpose of financing the costs of certain local improvements and paying costs incidental thereto.

A complete copy of the resolution, which includes the proposed assessment roll and the amount of each special assessment, is on file with the County Clerk and Recorder and is available for public inspection.

On Monday, the 27th day of August, 2007, at 9:30 a.m., at the Courthouse, West Annex, 800 South Main, in Kalispell, Montana, the Board of County Commissioners will conduct a public hearing and pass upon all objections, whether made orally or in writing, to the proposed levy of the special assessments.

Further information regarding the special assessments or other matters in respect thereof may be obtained from the Commissioners' Office at 800 South Main, Kalispell, Montana, or by telephone at 406-758-5503.

Dated: August 7, 2007.

Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on August 11 and August 18, 2007.

CERTIFICATE AS TO RESOLUTION

I, the undersigned, being the duly qualified and acting recording officer of the County of Flathead, Montana (the "County"), hereby certify that the attached resolution is a true copy of Resolution No. 1958C, entitled: "RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT No. 141; PRELIMINARY LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS" (the "Resolution"), on file in the original records of the County in my legal custody; that the Resolution was duly adopted by the Board of County Commissioners of the County at a meeting on August 7, 2007, and that the meeting was duly held by the Board of County Commissioners and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

WITNESS my hand officially this 7th day of August, 2007.

Paula Robinson
Flathead County Clerk and Recorder

By: /s/Diana Kile
Diana Kile, Deputy



RESOLUTION NO. 1958C

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT No. 141; PRELIMINARY LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS

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

Section 1. The District; the Improvements. The County has created a Rural Special Improvement district (the "District") pursuant to Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), denominated Rural Special Improvement District No. 141 (the "District"), and undertaken certain local improvements (the "Improvements") to benefit property located therein. The Improvements have been or, by the conclusion of the current construction season, will be substantially completed and the total costs of the Improvements to be paid with proceeds of the Bonds are estimated to be \$180,639, including all incidental costs.

Section 2. The Bonds. The County has pursuant to the Act issued its Rural Special Improvement district bonds drawn on the District, denominated "Rural Special Improvement District No. 141 Bonds," in the original aggregate principal amount of \$180,639 (the "Bonds"), to finance costs, including incidental costs, of the Improvements. The Bonds are payable primarily from special assessments to be levied against property in the District.

Section 3. Method of Assessment. (a) Pursuant to Resolution No.1958A, adopted by this Board on August 16, 2006, and which constitutes the resolution of intention to create the District, this Board determined to levy special assessments to pay the costs of the Improvements on the basis or bases therein provided as authorized by the Act.

(b) This Board hereby ratifies and confirms that the assessment of costs of the specific Improvements against the properties benefitted thereby as prescribed by the resolution of intention are equitable and in proportion to and not exceeding the special benefits derived from the respective Improvements by the lots, tracts and parcels to be assessed therefor within the District, and the special assessments authorized by this resolution are in accordance with the methods and do not exceed the amounts prescribed by the resolution of intention.

Section 4. Proposed Levy of Assessments. The special assessments for the costs of the Improvements shall be levied and assessed against properties in the District in accordance with the method of assessments referred to in Section 3. Such assessments shall be payable over a term not exceeding 15 years, each in substantially equal semiannual payments of principal and interest. Property owners shall have the right to prepay the special assessments as provided by law.

The special assessments shall bear interest from June 15, 2007 until paid at an annual rate equal to the Interest Rate (as hereinafter defined), as such may change from time to time, plus penalties and interest for delinquent installments as provided by law. As used herein, "Interest Rate" means, as of the date of determination, the sum of (i) the average interest rate payable on the Bonds then outstanding, plus (ii) one-half of one percent (0.50%) per annum. The Interest Rate shall be determined in August of each fiscal year so long any Bonds are outstanding and shall apply to the outstanding installments of the special assessments not delinquent. If no Bonds are outstanding, but special assessments remain unpaid and are not delinquent, the Interest Rate shall be equal to the Interest Rate as most recently determined. The initial Interest Rate for the fiscal year ending June 30, 2008 shall be 4.989456 % per annum.

Exhibit A to this Resolution (which is hereby incorporated herein and made a part hereof) contains a description of each lot, tract or parcel of land to be assessed, the name of the owner, if known, the total amount of the special assessment levied against each lot, tract or parcel, the amount of each partial payment of the special assessment, and the day when each such partial payment shall become delinquent (the "Assessment Roll").

The Assessment Roll is preliminary and is subject to consideration by this Board of the objections, if any, from owners of property in the District following the public hearing provided for in Section 7.

Section 5. Filing of Resolution. This resolution shall be kept on file in the office of the County Clerk and Recorder and shall be open to public inspection.

Section 6. Notice of Proposed Levy of Assessments. The County Clerk and Recorder is hereby authorized and directed to cause a copy of the notice of the passage of this resolution, substantially in the form of Exhibit B hereto (which is hereby incorporated herein and made a part hereof), (i) to be published twice in a newspaper meeting the requirements of Montana Code Annotated, Section 7-1-2121, with not less than six days between each publication before the date of the public hearing provided for in Section 7, (ii) to be mailed to the owner of each lot, tract or parcel of land to be assessed (to be determined from the last completed assessment roll for state, county, and school district taxes), on or before the same day such notice is first published; and (iii) to be mailed to such other persons or entities known by the County Clerk and Recorder to have an ownership interest in such lots, tracts or parcels (including, without limitation, mortgagees and vendees under contracts of deed), on or before the same day such notice is first published.

Section 7. Public Hearing; Objections. This Board shall meet on Monday, the 27th day of August, 2007, at 9:30 a.m., in Courthouse, West Annex, at 800 South Main, in Kalispell, Montana, for the purpose of conducting a public hearing on the levying and assessment of the special assessments in the District and considering the objections, if any, of the property owners to the levying and assessment of the special assessments.

ADOPTED by the Board of County Commissioners of the County of Flathead County, Montana, this 7th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

ATTEST:
Paula Robinson, Clerk

By: _____
Dale W. Lauman, Member

By: /s/Diana Kile
Diana Kile, Deputy

Exhibit A
RSID No. 141 - Williams Lane

| Lot, Tract or Parcel | Owner | Total | Nov 30, 2007 | May 31, 2008 |
|------------------------------------|---|---------------------|---------------------|--------------------|
| in Section 33, Tn. 27 N, Rg. 19 W. | | Assessment | Payment | Payment |
| 4Y and 4-12 | Lowe, James M. & Jane W. | \$9,142.11 | \$452.64 | \$299.63 |
| 4YB and 4-12A | Edmund & Daniel J. Langlois | \$9,142.11 | \$452.64 | \$299.63 |
| 4-11+ | Deutch, Howard Lea Thompson | \$9,142.11 | \$452.64 | \$299.63 |
| 4-13 | Jaynes, William H Mary Kathleen Ross | \$9,142.11 | \$452.64 | \$299.63 |
| 4-6 | Ahnert, Steven H & Mary K | \$9,142.11 | \$452.64 | \$299.63 |
| 4-6B | Terry, Albert J | \$9,142.11 | \$452.64 | \$299.63 |
| 4-6BA | Thompkins, Carol J | \$9,142.11 | \$452.64 | \$299.63 |
| 4-6A | Wolfe, Jr. Edward A | \$9,142.11 | \$452.64 | \$299.63 |
| 4PF+ | Helis, Cassandra M | \$9,142.11 | \$452.64 | \$299.63 |
| 4PD | Terry, Albert J | \$9,142.11 | \$452.64 | \$299.63 |
| 4PC | Filppula, Leonard G | \$9,142.11 | \$452.64 | \$299.63 |
| 4PA | Terry, Albert J | \$9,142.11 | \$452.64 | \$299.63 |
| 4PE | Terry, Albert J | \$9,142.11 | \$452.64 | \$299.63 |
| 4PB | Hanger, McCarthy & Sally | \$9,142.11 | \$452.64 | \$299.63 |
| 4-7 | Puett, Grayson E & Dorothy A | \$9,142.11 | \$452.64 | \$299.63 |
| 4-5 | Wolfe, Jr. Edward A | \$9,142.11 | \$452.64 | \$299.63 |
| 4-3 | Wolfe, Jr. Edward A | \$9,142.11 | \$452.64 | \$299.63 |
| 4Z | Gordon, Robert R & Donna M | \$9,142.11 | \$452.64 | \$299.63 |
| 4M | Gordon, Robert R & Donna M | \$9,142.11 | \$452.64 | \$299.63 |
| 4Q | Panico, Ralph & Judy | \$9,142.11 | \$452.64 | \$299.63 |
| 4W | Panico, Ralph Vincent & Judy Lynn | \$9,142.11 | \$452.64 | \$299.63 |
| 4T | Panico, Ralph & Judy Shelley, Herbert F & Roberta Mae | \$9,142.11 | \$452.64 | \$299.63 |
| 4V | Mae | \$9,142.11 | \$452.64 | \$299.63 |
| 4-2 | Lessor Revocable Trust, Roberta Gae | \$9,142.11 | \$452.64 | \$299.63 |
| 4U+ | Strelinger, Peter & Julie | \$9,142.11 | \$452.64 | \$299.63 |
| 4-8 | Harris Family Trust | \$9,142.11 | \$452.64 | \$299.63 |
| 4S | Cory Family Trust, Sally Ballard | \$9,142.11 | \$452.64 | \$299.63 |
| 4-0 | Holman, James W | \$9,142.11 | \$452.64 | \$299.63 |
| 4-0A | Helis, Cassandra M | \$9,142.11 | \$452.64 | \$299.63 |
| Total | | \$255,979.08 | \$ 12,673.92 | \$ 8,389.64 |

Payments will be due on November 30, 2007 and May 31, 2008, and each November 30 and May 31 through November 30, 2021 and May 31, 2022. Payments will become delinquent, if not paid, on December 1 and June 1 of each year.

* In each fiscal year, the then outstanding principal amount of assessment will be reamortized in equal semi-annual installments over the term of the assessments at an interest rate equal to the average interest on the outstanding bonds plus one half of one percent per annum.

EXHIBIT B

NOTICE OF PROPOSED LEVY OF SPECIAL ASSESSMENTS IN
RURAL SPECIAL IMPROVEMENT DISTRICT No. 141

FLATHEAD COUNTY, MONTANA

NOTICE IS HEREBY GIVEN that on August 7, 2007, the Board of County Commissioners of the County of Flathead, Montana (the "County"), adopted a resolution proposing to levy and assess special assessments against benefitted property in Rural Special Improvement District No. 141 in the County (the "District") for the purpose of financing the costs of certain local improvements and paying costs incidental thereto.

A complete copy of the resolution, which includes the proposed assessment roll and the amount of each special assessment, is on file with the County Clerk and Recorder and is available for public inspection.

On Monday, the 27th day of August, 2007, at 9:30 a.m., at the Courthouse, West Annex, 800 South Main, in Kalispell, Montana, the Board of County Commissioners will conduct a public hearing and pass upon all objections, whether made orally or in writing, to the proposed levy of the special assessments.

Further information regarding the special assessments or other matters in respect thereof may be obtained from the Commissioners' Office at 800 South Main, Kalispell, Montana, or by telephone at 406-758-5503.

Dated: August 7, 2007.

Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on August 11 and August 18, 2007.

CERTIFICATE AS TO RESOLUTION

I, the undersigned, being the duly qualified and acting recording officer of the County of Flathead, Montana (the "County"), hereby certify that the attached resolution is a true copy of Resolution No. 1971 C, entitled: "RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT No. 142; PRELIMINARY LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS" (the "Resolution"), on file in the original records of the County in my legal custody; that the Resolution was duly adopted by the Board of County Commissioners of the County at a meeting on August 7, 2007, and that the meeting was duly held by the Board of County Commissioners and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

WITNESS my hand officially this 7th day of August, 2007.

Paula Robinson
Flathead County Clerk and Recorder

By: /s/Diana Kile
Diana Kile, Deputy



RESOLUTION NO. 1971 C

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT No. 142; PRELIMINARY LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS

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

Section 1. The District; the Improvements. The County has created a Rural Special Improvement district (the "District") pursuant to Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), denominated Rural Special Improvement District No. 142 (the "District"), and undertaken certain local improvements (the "Improvements") to benefit property located therein. The Improvements have been or, by the conclusion of the current construction season, will be substantially completed and the total costs of the Improvements to be paid with proceeds of the Bonds are estimated to be \$200,000, including all incidental costs.

Section 2. The Bonds. The County has pursuant to the Act issued its Rural Special Improvement district bond drawn on the District, denominated "Rural Special Improvement District No. 142 Bond," in the original aggregate principal amount of \$200,000 (the "Bonds"), to finance costs, including incidental costs, of the Improvements. The Bonds are payable primarily from special assessments to be levied against property in the District.

Section 3. Method of Assessment. (a) Pursuant to Resolution No. 1971A, adopted by this Board on March 28, 2007, and which constitutes the resolution creating the District, this Board determined to levy special assessments to pay the costs of the Improvements on the basis or bases therein provided as authorized by the Act.

(b) This Board hereby ratifies and confirms that the assessment of costs of the specific Improvements against the properties benefitted thereby as prescribed by the resolution of intention are equitable and in proportion to and not exceeding the special benefits derived from the respective Improvements by the lots, tracts and parcels to be assessed therefor within the District, and the special assessments authorized by this resolution are in accordance with the methods and do not exceed the amounts prescribed by the resolution of intention.

Section 4. Proposed Levy of Assessments. The special assessments for the costs of the Improvements shall be levied and assessed against properties in the District in accordance with the method of assessments referred to in Section 3. Such assessments shall be payable over a term not exceeding 10 years, each in equal semiannual installments of principal, plus interest. Property owners shall have the right to prepay the special assessments as provided by law.

The special assessments shall bear interest from the dates of draws on the principal amount, the first of which was dated July 24, 2007, in the amount of \$70,921, until paid at an annual rate equal to the Interest Rate. Interest on the Bond shall be payable on each February 15 and August 15, commencing August 15, 2008 to the owners of record thereof

as such appear on the bond register on the date of payment, whether or not such day is a business day. The Bond shall represent all the principal installments of the issue. For purposes of this Resolution, "Interest Rate" shall mean, for the period from the date of original registration of the Bond until February 15, 2008, the rate of 4.85% per annum, and, for each twelve-month or shorter period thereafter during the term of the Bond commencing on February 16 and concluding on February 15 in the next succeeding year, an annual interest rate specified by the Trustee and calculated as provided under the Indenture, which rate generally shall be equal to the sum of (i) the interest rate on the Board Bonds during such period (which interest rate may not exceed fifteen percent (15%) per annum) plus (ii) a rate, not to exceed one and one-half percent (1.50%) per annum, sufficient to produce the amount necessary to pay the County's share of Program Expenses (as hereinafter defined). For purposes of this Section 2.01, "Program Expenses" shall mean the expenses of the Program, including (without limitation) the fees and expenses of the Trustee and such other fees and expenses of the Program or of the Board of Investments relating thereto as shall be approved by the Board of Investments. Under the Indenture, the Trustee is to calculate and notify the County, within 20 days after each March 1, of the interest rate on the Bond for the period commencing on the preceding February 16.

Exhibit A to this Resolution (which is hereby incorporated herein and made a part hereof) contains a description of each lot, tract or parcel of land to be assessed, the name of the owner, if known, the total amount of the special assessment levied against each lot, tract or parcel, the amount of each partial payment of the special assessment, and the day when each such partial payment shall become delinquent (the "Assessment Roll").

The Assessment Roll is preliminary and is subject to consideration by this Board of the objections, if any, from owners of property in the District following the public hearing provided for in Section 7.

Section 5. Filing of Resolution. This resolution shall be kept on file in the office of the County Clerk and Recorder and shall be open to public inspection.

Section 6. Notice of Proposed Levy of Assessments. The County Clerk and Recorder is hereby authorized and directed to cause a copy of the notice of the passage of this resolution, substantially in the form of Exhibit B hereto (which is hereby incorporated herein and made a part hereof), (i) to be published twice in a newspaper meeting the requirements of Montana Code Annotated, Section 7-1-2121, with not less than six days between each publication before the date of the public hearing provided for in Section 7, (ii) to be mailed to the owner of each lot, tract or parcel of land to be assessed (to be determined from the last completed assessment roll for state, county, and school district taxes), on or before the same day such notice is first published; and (iii) to be mailed to such other persons or entities known by the County Clerk and Recorder to have an ownership interest in such lots, tracts or parcels (including, without limitation, mortgagees and vendees under contracts of deed), on or before the same day such notice is first published.

Section 7. Public Hearing; Objections. This Board shall meet on Monday, the 27th day of August, 2007, at 9:30 a.m., in Courthouse, West Annex, at 800 South Main, in Kalispell, Montana, for the purpose of conducting a public hearing on the levying and assessment of the special assessments in the District and considering the objections, if any, of the property owners to the levying and assessment of the special assessments.

ADOPTED by the Board of County Commissioners of the County of Flathead County, Montana, this 7th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

By: _____
Dale W. Lauman, Member

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Exhibit A
RSID No. 142 - Southside Subdivision

**Lots in Southside Subdivision
in Sections 14, 23, Tn 27 N.,
Rg. 12 W.**

| Lot | Owner | Assessment | Nov 30, 2007 * Payment | May 31, 2008* Payment |
|-------|---|-------------|------------------------------|-----------------------------|
| Lot 1 | Belinda S. and Dale L. Crabtree | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 2 | Walter G. Kropp | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 3 | Tammy Denton and Mark P. Clark | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 4 | John Paul and Rhonda Jean Castner | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 5 | David Lawrence and Rong Yager | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 6 | Stacy Liebig | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 7 | Debra L. Tarbert and Bradley E. MacLachlan | \$16,427.38 | \$1,170.35 | \$803.53 |

| | | | | |
|--------|--|--------------|-------------|-------------|
| Lot 8 | Evan J. Carter | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 9 | Victoria L. Wilhelm | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 10 | Daniel and Sandra Fernandez | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 11 | Lloyd J. and Alice A. Kopp | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 12 | Lynn E. Caudill and Cory Lynn Byers | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 13 | Kelly S. and Virginia E. Wait | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 14 | Narda M. Cobb | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 15 | Jeremy Caudill | \$16,427.38 | \$1,170.35 | \$803.53 |
| Lot 16 | Judith J. Royston | \$16,427.38 | \$1,170.35 | \$803.53 |
| | | \$262,838.08 | \$18,725.60 | \$12,856.48 |

Payments will be due on November 30, 2007 and May 31, 2008, and each November 30 and May 31 through November 30, 2021 and May 31, 2022. Payments will become delinquent, if not paid, on December 1 and June 1 of each year.

* In each fiscal year, the then outstanding principal amount of assessment will be reamortized in equal semi-annual installments over the term of the assessments at an interest rate equal to the adjusted rate set by INTERCAP loan personnel plus two percent per annum.

EXHIBIT B

NOTICE OF PROPOSED LEVY OF SPECIAL ASSESSMENTS IN RURAL SPECIAL IMPROVEMENT DISTRICT No. 142

FLATHEAD COUNTY, MONTANA

NOTICE IS HEREBY GIVEN that on August 7, 2007, the Board of County Commissioners of the County of Flathead, Montana (the "County"), adopted a resolution proposing to levy and assess special assessments against benefitted property in Rural Special Improvement District No. 142 in the County (the "District") for the purpose of financing the costs of certain local improvements and paying costs incidental thereto.

A complete copy of the resolution, which includes the proposed assessment roll and the amount of each special assessment, is on file with the County Clerk and Recorder and is available for public inspection.

On Monday, the 27th day of August, 2007, at 9:30 a.m., at the Courthouse, West Annex, 800 South Main, in Kalispell, Montana, the Board of County Commissioners will conduct a public hearing and pass upon all objections, whether made orally or in writing, to the proposed levy of the special assessments.

Further information regarding the special assessments or other matters in respect thereof may be obtained from the Commissioners' Office at 800 South Main, Kalispell, Montana, or by telephone at 406/758-5503.

Dated: August 7, 2007.

Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on August 11 and August 18, 2007.

DOCUMENT FOR SIGNATURE: ALL BRIGHT CONTRACT/ EAGLE TRANSIT

[9:54:44 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall

Members absent:

Commissioner Dale W. Lauman

Others present:

County Attorney Jonathan Smith, Clerk Kile

Commissioner Hall made a **motion** to approve the All Bright Contract for Eagle Transit and authorized the Chairman to sign. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Hall. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: MDOT SECTION 5311 CONTRACT/ EAGLE TRANSIT

[9:56:31 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall

Members absent:

Commissioner Dale W. Lauman

Others present:

County Attorney Jonathan Smith, Clerk Kile

Commissioner Hall made a **motion** to approve the MDOT Section 5311 contract for Eagle Transit and authorized the Chairman to sign. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Hall. Motion carried by quorum.

MONTHLY MEETING W/ RAEANN CAMPBELL, HUMAN RESOURCE OFFICE

This meeting was not held.

CONSIDERATION OF LAKESHORE PERMIT: SILVERS

[10:20:38 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall

Members absent:

Commissioner Dale W. Lauman

Others present:

Planner Annie Thompson, Clerk Kile

Thompson reviewed the application submitted by Andy Silvers for a minor variance from the Lake and Lakeshore Protection Regulations for 59 square feet of impervious surface area over the allowable limit of 400 square feet; this overage was previously permitted. The applicant was issued a permit on March 11, 2005, for the extension of a previously permitted crib dock. The permit stated the impervious cover comprises a total calculated area of 421 square feet. An existing concrete stairway comprises a further 38 square feet. The total 459 square feet is within the allowance for the 50 foot lakeshore frontage of the non-conforming lot. Permission of this variance does not allow the applicant to do any additional work in the Lakeshore Protection Zone; it only allows them to keep the impervious surface area for which they are already permitted.

Commissioner Hall made a **motion** to approve Lakeshore Protection Permit FLV 07-03. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Hall. Motion carried by quorum.

COS REVIEW: BARDO

[10:30:13 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall

Members absent:

Commissioner Dale W. Lauman

Others present:

Planner Kirsten Holland, Dick Bardo, Alyssa Bardo, Rochelle Hill, Clerk Kile

Holland reviewed the chain of title for the Bardo request to give property to his children.

Commissioner Hall made a **motion** to approve the Bardo family transfer. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Hall. Motion carried by quorum.

COS REVIEW: ALTON

[10:49:33 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall

Members absent:

Commissioner Dale W. Lauman

Others present:

Planner Kirsten Holland, Jack Alton, Rick Breckenridge, Clerk Kile

Holland reviewed the Alton family transfer request to give property to his children.

Commissioner Hall made a **motion** to approve the Alton family transfer request. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Hall. Motion carried by quorum.

PUBLIC HEARING: HEDIN ZONE CHANGE/ SPRING CREEK ZONING DISTRICT

[11:05:35 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall

Members absent:

Commissioner Dale W. Lauman

Others present:

Planner Kirsten Holland, Jim Etzler, Bev Etzler, Patricia M. Clay, John L. Clay, Melinda Jobe, Jere Jobe, Virginia Gazewood, Leonard Offendahl, George Everett, Gregg Schoh, Tim Fogelson, Judy Fogelson, Dean Sackett, Verdell Jackson, Rob Grimaldi, Barbara Hartwell, Joe Orr, Dennis Hatton, Bob Ludwig, Neil Flanagan, Claude Hoffmeyer, Brenda Flanagan, Cheryl Hoffmeyer, Roger Sullivan, Howard Ruby, Fran Ruby, Susan K. Sheehan, Merle R. Phillips, Larry A. Rowland, J. Rowland, Jim Chilton, Michael O'Brien, Katie O'Brien, B. O'Brien, Patsy O'Brien, Carol Ann Chilton, Harrison Brand, Connie Ambrose, Janet Brand, Allison McCarthy, Bob Fraser, Karen Bach, Andrew Guy, Jean Burns, Daws Burns, Dave Rittenhouse, Raymond L. Rogge, Bob Hedin, Ray Rogue, Dr. Richard DuKlow, Peg Hedin, Lisa Horowitz, Bruce Young, Kevin Severe, Allison McCarthy, Sheila Norvell, Rick Wolfe, Karen Nagelhus, Janet Conroy, Jim Clark, Clerk Kile

Holland reviewed the Spring Creek Zoning District Staff Report FZD 07-01 application submitted by Robert and Peggy Hedin on behalf of citizens in the area, with technical assistance from F & H Land Surveying to establish zoning on the western boundary of Hwy 93 off of Spring Creek Road in the Somers/Lakeside area. This area is currently unzoned and the proposal would establish R-1 (suburban residential) zoning along a portion of the western boundary of Hwy 93 in Lakeside. The Lakeside Community Council met on May 29, 2007, to review this request, as a portion of the map amendment is located in the Lakeside Neighborhood Plan area. The council voted 4-1 to recommend approval of the request; citing the application's conformity with the Lakeside Neighborhood Plan. On June 20, 2007, the Flathead County Planning Board held a public hearing to consider the establishment of Spring Creek Zoning District.

Commissioner Hall asked why the Etzler condo application was withdrawn.

Holland stated it was because it did not reach sufficiency. She then said that the Planner and Planning Director requested the applicant to aggregate the lots upon which the subdivision would be located, since there were five lots in the Osprey Subdivision and a remainder; with six legal descriptions for the tract of land. The Planning Director with advice from the County Attorney's office requested that they be aggregated to create one legal description underneath the condominium development. Holland then stated that it was her understanding that in order to have a condominium development, which would result in many ownerships of the interior of the buildings that the lots beneath it needed to be aggregated into one legal parcel. It was then stated that this is her understanding of the reason to aggregate. She then said that the applicant was either unwilling or unable to make the change, and therefore the application did not reach sufficiency and the applicant withdrew the application and filed declaration of unit ownership documents for the condominium project. He was notified sometime after that, that the application would also have to go through subdivision review as a condominium in an unzoned area. Holland then stated that condominiums in zoned areas are not reviewed by subdivision if the use is contemplated; for example if you have a B2 zone that allows offices and someone wants to do many offices in a structure, they would get a conditional use permit, they would not go through subdivision, but in an unzoned area subdivision review is required; so the application should come back to their office, but has not at this time. She then said that several correspondences have gone back and forth between their office and the County Attorney's office in regards to recording documents.

Chairman Brenneman opened the public hearing to anyone wishing to speak in favor or opposition of the zone change.

Lisa Horowitz, 935 1st Street, Whitefish, with L H Land Use Consulting spoke as a representative of the neighborhood group that put the zone application forward. She then introduced the applicant team that included F H Land Surveying and Roger Sullivan as legal counsel. Horowitz then spoke about the process they went through to come up with the zone designation for the proposed district. They looked at the 263 acres that included 66 parcels and the recommended R-1 zoning with them having six lots that are non-conforming in respect to size, and two lots non-conforming in respect in use. She then reviewed the map in regards to what was looked at in making the decision for the R-1 zoning that seemed to be the best fit in regards to being consistent. Also discussed were property values and the value of zoning protecting the character of the neighborhood.

Commissioner Hall questioned Lisa Horowitz in regards to the majority of the properties already being R-1 or R-2 properties.

Lisa Horowitz said that they did not want to make all or most of the parcels in the district non-conforming and that most of the properties would have an opportunity to split one more time if they chose to.

Roger Sullivan then stated that Peggy Hedin put together an applicant's team to make a presentation to the Commission and that their presentations are each close to three minutes. He then said that the team was operating under the assumption that the presentation would be similar to the Planning Boards.

George Everett, 1344 Helena Flats Road, stated that he presented testimony at the original Planning Board hearing in the form of written testimony, and after going through the files it was not found; he then turned in a letter of written testimony. Everett said that he is there not only as a legislator from HD5, but as a resident of Flathead County who is concerned about the neighborhood zoning process. He then said that Mr. Etzler contacted him regarding the county process dealing with zoning, in which he wasn't familiar with his circumstances; so he referred him to engineers that work in the valley. Everett said that he was concerned about the potential taking of property rights from citizens; with the Etzler's living in the valley for 27 years and having purchased the property as an investment. It was then stated that this property is different than the rest of the property in the zoning district, with it being fairly level and close to the highway. He then said that the development did not need one separate deed that it became a deed after the development was established. Also stated was that the Etzler's did not receive direct information about the proposed zoning meeting and that he feels all those that are involved in the zoning district should be contacted, and if the property owners want to zone their property that is fine, but that the Etzler's property should be exempted from the process. He then spoke about the approval the Etzler's received from the highway department in regards to having sufficient sight distance and meeting MDOT requirements. The Somers Rural Fire Department also gave the Etzler's verbal approval in 2006. Everett then said if the Etzler's can show cause where they have invested a lot of time and effort into the property, and that if it is different than the other zoning parcels that they should be given the right to utilize their property as they were planning to do.

Peggy Hedin, 206 West Ridge Drive, gave some background information for the zoning petition. She said that growth has come aggressively to Flathead County and that sometimes the only way people find out that it has arrived at their doorstep is when buildings start. Hedin then said that in their case 19 acres of horse pasture was subdivided for six houses in late 2005, with a road being paved and power being brought to the property. She then added they were blindsighted again a few months later, when in March of 2006, an article in the West Shore News announced that a new application had been filed by the same owner to put 120 plus condos on the same 19 acres. She then said that she expressed her objections to the Etzler's, and were told they were going to go ahead with the project; because they had a right to do whatever they wanted with their property. Since the high density condo subdivision was already filed for the area, they assumed it would proceed through the subdivision review process, and they looked to find a land use planning tool that could in the future allow them to preserve the important qualities of their neighborhood. Hedin then said that they saw all the growth with condos being built in Juniper Bay, and that the high density development brings more proposals for high density development, with many problems for the surrounding neighborhood and properties. In order to not have to mount protests over and over again project by project, they sought to find a final solution, in which they at first thought a neighborhood plan is what they needed. They realized that what they really needed was zoning, at which time they began to canvass the area to determine what support they would have. In September of 2006, they were ready to file for zoning, and at that time the county declared a moratorium on zoning applications, until after the Growth Policy was adopted. She then said that the condo developer was not canvassed, because they had already reached out to him with his project being filed and grandfathered in; therefore they assumed he would not be affected by anything they did. Hedin stated that they made no secret of what their intentions or efforts were that they canvassed openly and sought advice. In spite of the well known efforts to apply for zoning well before they actually filed for it, the developer of the condos unexpectedly withdrew his application from the Planning Office. It was then stated that they have 47 out of 53 land owners in support of the zoning.

Dr. Richard DuKlow, 325 Spring Creek Road, presented the history of some of the property in the proposed zoning district, in which as a young man he spent his childhood years. He then stated in 1988 he had the opportunity to purchase 18 acres, which he and his wife and sons still own, and have no intentions of subdividing. DuKlow then commented about the residents that live in the neighborhood now compared to ones that lived there 50 years ago; with the friendliness persisting over the years and that is what they are trying to preserve with the zoning process.

Dennis Hatton, 249 Breezy Point, stated that Somers is starting to become a community in the area with them having a Neighborhood Association now and that the majority of those moving into the area appreciate the area the way it is and that zoning is part of the process that will help to maintain what they have there now.

Dean Sackett, 220 West Ridge Drive, stated that the zone change proposal would help control overall density in a manner consistent with the carrying capacity of Spring Creek Road. He then explained that the problem with Spring Creek Road is that it is an old narrow logging road that was paved a few years ago; but was not brought up to county standards. Sackett then spoke about the grade being steep where it intersects Hwy 93 and stated that the road has little or no shoulders, it has a heavily congested intersection, a sub standard right of way with no improvements for pedestrian travel and limited visibility when looking to the south. He then said that multi family development along Spring Creek Road is over crowding of the land and infrastructure.

Patsy O'Brien, 215 West Ridge Drive, spoke about the potential for increased high density developments with the popularity of the area. She then said that she feels that R1 zoning for the area would give a measure of predictability to the unzoned areas, would help to maintain the rural landscape that is a part of the scenic beauty in the area of Flathead Lake, ensure property rights for all property owners as well as potential developers and alleviate serious concerns with traffic congestion.

Verdell Jackson, a resident for 16 years on Wagner Lane stated that in 1991 property was relatively inexpensive, and he was able to purchase 22 acres. He then added that since that time the taxes have more than doubled on his property and he questions how long he will be able to pay his taxes. Jackson then stated that a subdivision was built on Wagner Lane next to his property and he was pleased that the developer followed the law when he built it. He also spoke about his concern with property taxes and property rights, and added that he is concerned with the process. His concern with the property in the proposed zoning district is that he feels it should not be included, and then stated that the process needs to be fair. Jackson then referred to a map in explaining why he feels the parcel should not be included in the proposed zoning district. He then spoke about following the law and stated that we as American's still have private property rights.

Joe Orr, 5655 Hwy 93 South, quoted from a letter written by the Superintendent of the Somers School District, that states that we strongly support zoning within our district as a means of providing order and predictability for the zoning process. He then added as facility planning member of the Somers School Advisory Committee, that the biggest challenge to try to get ahead of is the curve of upgrading and expansion of district facilities. Orr then said that this is an age old problem for school planners, but coupling the rural and largely unzoned area that they serve, with the apparent over whelming desire of people to live within the district, makes planning difficult in this case. He then said that zoning is a necessity for pro-active long term planning.

Dave Rittenhouse, 3978 Aspen Court, Boise, Idaho, the owner of lot 2 in the proposed zoning district spoke in favor of establishing R-1 zoning for the area. He then read a letter that was presented to the Commission in regards to the property that was homesteaded by his wife's great grand parents in 1903, and stated that the land across the street was owned by a great uncle also. Rittenhouse then gave a history of the Kramer family and stated that even though the land has been sold over the years, that there is still a strong interest of preserving covenants on the property. He then asked that R-1 zoning be granted.

Bruce Young, 266 Stoner Creek, commented that it is incumbent on the Commissioners to respect the wishes of the people who live in the area and pay their taxes that would be influenced negatively financially, if burdensome projects are forced upon their neighborhood. He then said that he believes in private property rights, and also understands that his rights end when they start influencing his neighbors. Young then said that the owner of the 20 acres is not being precluded from developing his land; that he can split it 18-20 times. He then asked that the Commission take a look at the traffic on Hwy. 93 and asked that they continue to support good growth in the valley.

Kevin Severe, 140 Monaco Drive, stated that he is not for or against the condos and can see that the zoning request is a useful tool. He then said that he would like to see the Etzler property excluded from the zoning; with their property being different than the rest of the parcels. Severe noted that it seems that when the application was withdrawn that the zoning was jumped

upon. He then said that the applicant stated, that it was not her intent to affect the Etzler's property with the zoning, then he questions why it is referred to so much in this zoning proposal.

Allison McCarthy, 551 North Juniper Bay Road, stated that she is impacted by what happens with the intersection and the development in the area. She then asked that the Commission approve the application for R-1 zoning with all of the land included. McCarthy then spoke about the vision they have for the neighborhood.

Howard Ruby, 85 Spring Creek Road, stated that the Flathead Lake Protection Association asked that the Spring Creek zoning district request be approved. He then said that the zoning would help protect Flathead Lake from runoff and will also protect those from over developing upscale property.

Sheila Norvell, 555 Spring Creek Road, stated that her family owns 100 acres above the proposed zoning district, and that she is a fourth generation land owner. She then added that she wants to see protection for the fifth generation and wants to see the land use wisely. Norvell stated that what we do today is going to affect the next generation.

Virginia J. Gazewood, 105 Looking East Drive, spoke in favor of the R-1 zoning. She then read a prepared letter that was signed by her husband James Gazewood also, with attached photos in regards to traffic congestion on Spring Creek Road and Hwy 93. Gazewood stated that in 7/8 of a mile there are 12 roads off of Hwy 93 South coming onto the highway. She then reviewed and commented on 15 pages of pictures that were taken in regards to traffic.

Commissioner Hall asked why the school bus is dropping kids off on the east side of the highway, when there is a bus pull out on the west side.

Virginia J. Gazewood commented that one of the buses in the afternoon does drop the kids off.

Janet Brand, 118 Hill Dale Drive, spoke in full support of the Spring Creek zoning.

Fran Ruby, 85 Spring Creek Road, noted that the Ruby's have lived in the area for a long time below the proposed Spring Creek zoning district, and stated that she is in favor of the zoning district. She then said that she feels it would be a disaster to those living below the condo's if the development occurs.

Bob Fraser, 375 North Juniper Bay Road, spoke in support of the zoning district and then said that the people here today do not oppose growth, but that they support growth with rules. He then quoted from a letter from the Lakeside County Water & Sewer District that supports zoning, which states: It will help them to provide better means in planning for future growth areas throughout the district service area. Our goal is to provide sewer service to every required residence and building, especially those along Flathead Lake. Regardless of what zoning designation is assigned, it would prove to be invaluable to our planning efforts and to yours as well.

Jim Chilton, 255 West Ridge Drive, spoke in support of the R-1 zoning.

Ray Rogue, 420 North Juniper Bay Road, spoke in favor of zoning.

Bob Hedin, 206 West Ridge Drive, read a letter from Mr. Denton who was not able to attend the public hearing. The letter said that a four acre site was purchased on West Ridge Drive, with the intent of the purchase being that his daughter and family would eventually build a home on the site when they retired. The letter spoke about rapid development within the valley and noted that the property purchased met all the criteria expected with location, beauty, neighborhood compatibility, close proximity services and a view of Flathead Lake. Hedin then said that with the plan of the five lot subdivision adjacent to his property he was not thrilled, but knew some type of development was inevitable on the land; five one acre sites seemed to be a reasonable alternative, which they could comfortably live with. He then added that during the past 29 years he has been involved in appraisal of real estate in the valley, and that high density development within the Spring Creek neighborhood will definitely have an adverse affect of view, traffic and rural setting appearance.

Tim Fogelson, 240 West Ridge Drive, spoke in support of the proposed zoning for the neighborhood.

Judy Fogelson, 240 West Ridge Drive, spoke in support of the proposed zoning for the neighborhood.

Merle Phillips, 202 West Ridge Drive, said that his family moved to Somers in 1947 and that he grew up in the area, and recalls the quaint community of Somers. He then said that he moved here to retire and that his minds eye view has changed dramatically over the years. Phillips then said that he is in favor of the proposed zone change in order to keep the community the way it is.

Neil Flanagan, 138 Hill Dale Drive, said that he is in full support of the zoning change and then spoke about situations on the road creating a hazard.

Brenda Flanagan, 138 Hill Dale Drive, also spoke in full support of the zoning.

Connie Ambrose, 160 Looking East Drive, said that in order for any subdivision or further development to go on above Spring Creek Road that the intersection would have to be addressed. She then said that where Hwy 93 and Spring Creek Road intersect is congested and the area is small and in need of repair where the bus picks up kids. Ambrose also spoke about students crossing the highway to get home after being dropped off by the bus. It was then stated that if zoning would address the intersection and safety for the children, then she is in full support of it.

Rick Wolfe, 265 West Ridge Drive, commented on traffic and stated that they have a serious problem now in entering or leaving Spring Creek Road. He then spoke about an accident that he recently was in where he was struck by a tractor trailer. Wolfe then said that he is in support of the proposed zoning district.

Karen Nagelhus, owner of Osprey Nest Antiques, stated that the Etzler's property borders two sides of her property. She then said that she has major concerns with the development and that her shop was closed for two months last winter with ice problems, and that runoff is a major concern. Also stated was that the traffic problem is unbelievable with accidents in the area. Nagelhus said that she is confused about where they are at with the Osprey Ridge Condos, in which Planner Holland

replied that they have no application in their office. She then said that she has been and still is in support of Jim and Bev Etzler's low density development plan that has been approved. The plan they assured her they would be going forward with at the time they purchased her property for \$325,000.00. Their plan was to keep 10 acres for their personal residence, in which many times they sat in her shop and discussed the wonderful house they were going to build on the north 10 acres of her property. They brought covenants showing her what they would demand of the parcels for the lower 10 acres, in which she was delighted. Nagelhus then said that she made a mistake in believing Jim and Bev Etzler many times over in believing they were paying fair market value for her property, when she gave them \$5,000 to plant trees on the property behind her shop, when she tried to be a good neighbor and when Mr. Etzler called her to tell her not to get involved with Peggy Hedin. She then stated that Peggy Hedin is an amazing and competent lady that has taken with grace and dignity the punches, bruises, sticks and stones that have been thrown at her.

Janet Conroy, an adjacent land owner to the Etzler's said that she was told that the parcel was going to be divided into half and that five homes would be built on a cul-de-sac and one being the remainder parcel that they were going to build their home on. She then read in the newspaper that it wasn't five homes to be built; that it was going to be 122 condo's that would essentially sit between her front lawn and Karen Nagelhus's back yard. Conroy then said at the Planning Board hearing for the proposed zone change Mr. Etzler brought in various people from Kalispell and Columbia Falls to talk about property rights, and how he had never been told about the zoning proposal. She then said that she had a letter dated June 8, 2007, when he said that his first and only notice of this proposed zoning district was received on May 26, 2007. She then added that she is an attorney and sent him two letters, dated April 2006 and September 2006. Conroy stated that she has lost seven transactions in trying to sell her home, because as soon as she discloses to anybody what the proposed nature of the parcel is going to be, no body wants to spend hundreds of thousands of dollars to look at the back of a 122 condo parking lot. She then stated that there is no reason that this parcel should not be included in the zoning application. Conroy then spoke about the Planning Board hearing where speakers were brought in that were pro-property rights; in which she stated that she is for property rights and has spent her life defending peoples property rights as a real estate attorney. They also brought in people who said this is what we pay the price of freedom for. She then said that she has lost a son to the Iraq War in which she clarified he didn't die so people could develop land and make sixty million dollars in her front yard. She then asked that the zoning application be granted.

Jim Clark, 128 Hill Dale Drive, stated that he totally supports property rights when they come with responsibilities, which includes recognizing the rights of adjacent property owners. The right to a quality of life in which they have invested everything in, the right to retain property values, the right to peace, the right to safety and the right of a return in their investment. He then read Goal 2 in the Growth Policy that states: Preserve the rights of property owners to the use, enjoyment and value of property, and protect the same rights for all property owners. Clark then said the best way to meet Goal 2 is with zoning, with zoning providing predictability for the owner and limiting chaos. With the proposal being supported by 89% of the property owners, he is requesting that the zoning application be approved.

Bob Ludwig, 108 Hill Dale Drive, spoke in support of the zoning with traffic being a major problem in the area.

Barbara Hartwell, 128 Hill Dale Drive, whole heartedly spoke in support of zoning.

Andrew Guy, 115 Looking East Drive, stated that from his living room and dining room he looks out on what has been referred to as Osprey Ridge, and that it is right within the neighborhood. He then added that the idea that the parcel is somehow different and that it was picked out is a lot of nonsense.

Roger Sullivan, 324 Boon Road, an attorney for the Spring Creek Zoning District applicant stated that he lives near the zoning district, but not within it. He then said that he assisted with the preparation of the proposed zoning request, and strongly supports it. He then presented the Commission and Planning Staff with written comments. Sullivan then said that the proposal enjoys broad support from those that live within the proposed zoning district. As far as the legal standards MCA 76-2-203 sets forth the criteria that must be considered in deciding whether or not to create this proposed zoning district, MCA 76-2-205 sets forth the mandatory procedures in regards to creation of a zoning district, and the proper notices and public hearings to be held. He then referred to a letter from the Etzler's attorney, dated June 22, 2007, to the Flathead County Attorney claiming that the county office is engaging in unauthorized and unlawful conduct in obstructing the right of the Etzler's to convey the Osprey Ridge condominium parcels, in refusing to acknowledge the validity of the condominium recordation. The Etzler's attorney contends that under MCA 76-3-203, that the subject property is exempt from subdivision review. Sullivan then said that the statute that is being cited appears to strongly support the position that Flathead County has taken. He then said that this would be resolved between the Flathead County Attorney's who have taken a position that is well informed and well principled. In regards to the zoning proposal that is before them now, assuming that the Etzler's are right, then there is no harm in proceeding with the zoning; since the unreviewed subdivision proposal under their argument would be grandfathered under the non-conforming use provisions of the Flathead County Subdivision Regulations. The contention that the Etzler's have been targeted by this zoning proposal is simply misplaced. He then noted that when this zoning application was submitted, the Etzler's subdivision application for the 122 unit condominium proposal had already been filed, and the subdivision application was withdrawn after the zoning was already underway; so the zoning proponents had nothing to do with the Etzler's decision to withdraw the application. He then spoke about access from parcels that all come off Spring Creek Road and stated that the zoning does have integrity, and that the neighbors are willing to work with developers with their proposals of projects that fit the neighborhood. He then noted that six of the 66 parcels are less than one acre, so they are grandfathered as well as the commercial lots. It was then added that the contention has been made that there is no need for the creation of the zoning district, since private covenants already prohibit the further division of parcels of land in the various subdivisions that are located in the zoning district. He then spoke about covenants being amended by the majority of the lot owners and stated that zoning would create uniformity of regulations through out the district, and require a public process in order for the regulations, boundaries or uses to be amended. Sullivan stated that the density of R-1 zoning has long been recognized as the appropriate zoning for the area and makes sense.

Commissioner Hall stated that he loves the public process, his job and seeing government in action, and then stated that we need to give the respect that we have just been given, as they have a right just like everyone else.

Bev Etzler, 1600 Whalebone Drive, stated that she did meet with Karen, the owner of the antique store and told her of their intentions with the condo's, and talked with her at her home about the project; also stated was that their original intent was the five lots and to build a home. Etzler then said that as they worked on the project, because of road noise they did change their mind and that they do have that right. She then said that if their original intent was not to do five lots, then why would they have paid the fee and gone forward with the process, if that wasn't their original intent, which it was. It was then stated that people need to be honest and come forth with the whole truth. Etzler then said that they live off of Hwy 2 and she understands

traffic issues, with them having the same problems on Hwy 2 and Hwy 93 North & South. She then added that there are a lot of issues that need to be looked at and is in total agreement with that. She then said that she would like to request a copy of the letters that Janet stated were sent to her, because they never received any letters, except for the county notice of the zoning request. Etzler then said in regards to Janet's comment, that if your hardship is difficult, I am sorry, but that you have a 3.7 million dollar home on Flathead Lake, and I don't believe that is extreme hardship. It was then stated that the application that was put in for the proposed Spring Creek zoning, is being done under false pretense; that the true reason is as they have heard, is to stop Osprey Ridge Condo's. Therefore, I request that the proposed R-1 zoning be denied because of the deceitful and unethical manner in which it has been handled from day one of the application. The fact is that the proposed R-1 zoning is not applicable to approximately 85% of the landowners, which is the majority. The majority of the landowners in favor of the proposed district live in subdivisions with restrictions, or the size of their parcel cannot be further divided, so what would be the purpose that these people came and applied for R-1 zoning, or what would be the purpose for approving it. The proposed district is not about planning; it was all about controlling the Osprey Ridge Condo project. The fact is validated in the applicant's survey letter that was dated while preparing their protest against the Osprey Ridge Condos and talking with many. The survey letters were sent out by Peggy Hedin in the fall of 2006, to every property owner except Jim Etzler, the largest land owner in the district. Mrs. Hedin stated at the Lakeside meeting when she was asked by the council if 100% of the land owners were notified. This was not true, when her husband questioned the fact in regards to not receiving a notice from her; she replied that he was not sent out a survey, because she knew he would be against the R-1 zoning. She heard the comment that you don't live there, that you are not a part of the neighborhood, nor do a lot of the people who own property in the district live there. The verbal request made by Bev and Jim at the Lakeside meeting to be excluded from the R-1 zoning district was not mentioned in the Planning Office's report. Since then before the June 20, 2007, meeting a letter was submitted requesting exclusion and also a three page petition with signatures requesting that they be excluded is not mentioned in the report. She then said that the Planning Office report contains misrepresentation. At the June 20, 2007, meeting a Planning Board member inquired why the district ends at their property at the north east boundary, and why it didn't continue further north. The answer was given that the applicant didn't want to include the parcels, because they did not access Spring Creek Road, and 42% of the parcels within this proposed district do not access onto Spring Creek Road. When the proposed R-1 zoning application was submitted it did not apply to the majority, it applied to approximately 15% of the land that was there that didn't have restrictions. We need to evaluate accordingly and look at how the proposed district fails to follow the Growth Policy for who is left that it would actually apply to, it does not include the best use of land that is in the Growth Policy, especially their property, which has been the main topic, considering its location of bordering Hwy 93, Spring Creek Road and its geographical uniqueness; with it being open and not heavily timbered. She then noted that it has the only road way in the proposed district that is up to county standards. It was stated that R-1 zoning does not preserve property rights; is it preserving rights when it doesn't affect your property in any way? R-1 zoning devalues their property by over 70%, R-1 zoning is a safety issue for 80-90% of the property within the district; pictures have been submitted of the grade and switchbacks of the roads with 80-90% of the landowners living in the heavily wooded areas in the pictures, with the areas having single lane sub-standard roadways with steep grades, which have curved and switch backed areas; Spring Creek Road looks like a super freeway compared to the other roads that are in 80% of the area, with them being unsafe and at tremendous risk of fire. If they change the zoning and covenants and added one more home to the areas, what would be the point with lives at stake right now, with the potential for fire being huge, and the criteria for subdivisions would not be met if you drove through there right now. R-1 zoning is for tracts that have their own sewer systems; their parcel will be serviced by the Lakeside Sewer, they approached them when they first started on this project and asked if they would consider, they did not go in their office first, they were approached by them and Dale Lauman can verify that. Considering all the facts she asked that they look carefully at how the proposed zone change has been handled. She then said that she thought planning was getting together with people and communicating, no one has called them or asked them what their plans are and no one has made any effort. Etzler then stated that when they went to the Planning Office they were told to present the proposal to Lakeside, and they did so before they ever thought about organizing. They tried to do what was right and they are backed into a corner and are trying to be honest and asked that what is hidden and untrue be exposed.

Chairman Brenneman clarified that the petition is part of the record.

Jim Etzler, 1600 Whalebone Drive, stated that as you can see by looking through the file on the proposed Spring Creek R-1 zoning district, and also by what has transpired today, that it is not difficult to discern that this zoning is really about controlling my property; with the whole focus on Osprey Ridge Condos. When you look at the fact that approximately 85% of these parcels are not sub-divideable, due to restrictions or are too small to be subdivided, you must look at the purpose of what the zoning is for. Why is it being created? Hen then noted that there were two letters that the Planning Office never put into the county files on the proposed zoning district; one from George Everett and one from Gene Dziza, in which he commented on the Spring Creek zoning proposal via an e-mail to Jeff Harris that said: *I was at the Lakeside meeting when the proposal came up, and the applicants made it obvious that the target of this zone change was a landowner that wanted to build condos in the area. The applicant admitted she had contacted every landowner in the zoning district, except the landowner that was planning on building the condos. I can't comment on the zoning proposal and I can't comment on a condo project, but I will comment on something that is pertinent. I believe that when people buy property and make their intentions known, we need to be careful about rushing into creating exclusionary zoning. This is the second time a specific landowner has been targeted in this area. Is this going to create a precedence we want to encourage? If it doesn't raise legal questions, I feel it raises questions of ethics. Please pass this on to Planning Board members.*

Commissioner Hall stated that he received the letter from Gene Dziza via e-mail, and questioned why it wasn't in the file in which Holland stated, that Mr. Everett's letter was never given to Planning Staff and that the letter from Gene Dziza was submitted for the file.

Jim Etzler stated that at the Planning Board meeting on June 20, 2007, Gordon Cross made a motion to exclude the Etzler's property, and as recorded in the minutes, Mr. Cross stated that he was particularly troubled with what happened with the Etzler property, and thinks the applicant should have discussed the zoning with the Etzler's, since it affects them. Mr. Hines stated that the applicant waited eight years to request zoning and they were forewarned that development was coming, and also stated that he did not approve of the process in getting it done. At the June 20, 2007, meeting it was indicated that Mark Unruh's two parcels had been excluded from the proposed district, because he did not feel it would benefit him. When he purchased the property there were no restrictions, and he didn't want any restrictions placed on his property. Etzler then said that when he purchased his property he didn't have any restrictions either, and just like Mark Unruh, he doesn't want restrictions placed on his either. He requested several times to be excluded from the proposed district, only to be ignored and denied the right to be excluded. This is discrimination and to set the record set on the submittal of Osprey Ridge Condos, the Planning Office would not issue a letter of sufficiency. They held him up for no reason and demanded that they aggregate their

previous subdivision into one parcel, and as their attorney presented documentation that over the years there is no requirement to aggregate a subdivision into one parcel, yet the Planning Office continued to hold them up. Over a period of six months time, they missed their hearing and paid thousands of dollars in attorney's fees, because the Planning Office was holding them up illegally. He then said that they had a traffic study done, and would be glad to share the results of that with the Commission. Etzler then said that there is a lot of miscommunication in the number of parcels with his property being one parcel, which is accurate, because it is already condo's, the documents are recorded and when a parcel is a condo, whether on one parcel or multiple parcels, the outside boundary is what determines the boundary. He then stated that he has recorded the condo documents and that the State of Montana acknowledges that the condos are valid and if the R-1 zoning is approved and my property is included, then Flathead County and the State of Montana would be in direct conflict with one another. He then presented the Commission with a copy of his tax statement. Etzler then stated that due to the fact of the deception and manipulation that has taken place between the applicants and the Planning Office, I hereby request that you do not approve the proposed Spring Creek R-1 zoning district, and at the very least I request that you exclude my property. He then said that it is extremely obvious that this whole thing pertains to Osprey Ridge Condo's; that it is not about preparing a zoning district where people are involved, that it is a deceitful manner to take away the rights on his property, which he bought and paid for.

Leonard Oftendahl, stated that he does not live in the proposed zone change, but that he has worked extensively in the area and was the one that alleviated the fire hazard on the Etzler's property. He then said that land owners have rights and that he is not for or against condominiums, and feels that if it is something that is not directly affecting the neighbor that they need to work together. He then spoke about the traffic issue being kicked like a dead horse and stated that there is a traffic issue. Oftendahl then spoke about zoning boundaries and questions why there needs to be zoning there, that the zoning would allow the area to create approximately 200 lots, if you go with one acre lots. He also spoke about taking into consideration things that will happen in future generations to come, when someone says that they do not intend to sell their property and if they want to keep the neighborhood integrity the way it is, if he lived there, he would say let's freeze it the way it is, then we would have legal issues and it would eventually all come down to money. He then added that he knows the land like no one else after alleviating the fire hazard, and that the land is buildable whether it's six homes or 120 condo's. He then added that he is concerned about the heritage he is leaving for his children on his property, and asks where would his property rights be if the neighbors can tell him what he can do on his property, barring he didn't do anything offensive on the property. Oftendahl then said that from working with the Etzler's in the past their integrity is impeccable, and that he has seen the renderings of what they want to build and that it looks nice. He questions if we are going to break all of Flathead Valley up into one acre parcels, and stated that he is opposed to the proposal the way it is, and thinks that all parties concerned; being the whole neighborhood should sit down and re-configure what the best plan would be for their neighborhood.

Jere Jobe, 145 Looking East Drive, stated that he and his wife fully support the zoning proposal. He then said that they love and respect the rural nature of the area enough, that they have started talks with the Flathead Land Trust to protect their four acre parcel, that will hopefully eliminate future development by donating to the trust. He then asked that the proposed zoning district be approved with all parcels included and then stated that he is well aware that growth will happen, however by zoning the area as proposed our valley will not become the next Lake Tahoe of the great northwest.

Michael O'Brien, 215 West Ridge Drive, spoke in support of R-1 zoning and stated his concerns with runoff into Flathead Lake.

Harrison Brand, 118 Hill Dale Drive, spoke in support of the zoning. He then said that he feels the proposed zoning district is a good proposal and that the condo development is a bad proposal.

Peggy Hedin presented a letter to the Commission from Mark Unruh who asked to be excluded from the proposed Spring Creek zoning district.

No one else rising to speak Chairman Brenneman closed the public hearing.

Chairman Brenneman questioned Holland in regards to the zoning that goes north.

Holland said that is was discussed with the applicant and they explained the reasoning why, which included the Somers bowl theory and access neighborhood theory. She then said that her personal professional opinion is that it does make sense to exclude the parcel based on the use of the land and location of existing structures.

Commissioner Hall stated that Lisa Horowitz said that the property sloped off and he questioned why the road going up, which is West Ridge Drive has access.

Holland stated that the parcel access is from Hwy 93.

Chairman Brenneman stated that he was comfortable in supporting the resolution; however, if there is a desire to have all three Commissioners present, it can be taken under advisement today.

Commissioner Hall said that they have heard a lot of testimony today and knows that Commissioner Lauman has been studying the zone change, and that it is in his district and would like to hear from him. He then said that he feels the zoning makes sense for the area.

Commissioner Hall made a **motion** to continue Monday @ 9:45. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Hall. Motion carried by quorum.

4:00 p.m. Commissioner Hall to RAC meeting @ Commissioners Meeting Room

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

WEDNESDAY, AUGUST 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.

9:15 a.m. Commissioner Lauman to RSVP Board meeting @ Heritage Place
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 August 9, 2007.

THURSDAY, AUGUST 9, 2007

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

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

AUTHORIZATION TO PUBLISH RFP INMATE PHONE CONTRACT

[9:02:02 AM](#)

Members present:

Commissioner Gary D. Hall P.T.
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, County Attorney Jonathan Smith, Sheriff Mike Meehan, Kathy Frame, Clerk Kile

Commissioner Lauman made a **motion** to authorize the publication of a request for proposals for the inmate phone contract and authorized the Chairman to sign. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

CONSIDERATION OF ADOPTION OF RESOLUTION: PAY RATES ESTABLISHED BY THE FOREST SERVICE FOR PAYMENT OF FIRE FIGHTERS & EQUIPMENT CONTRACTED FOR FIRE FIGHTING

This meeting was postponed.

DOCUMENT FOR SIGNATURE: STATEMENT OF WORK MONTANA LAND INFORMATION ACT 2008 GRANT MLIA 2008 05/ GIS

[9:06:50 AM](#)

Members present:

Commissioner Gary D. Hall P.T.
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, County Attorney Jonathan Smith, GIS Director Tom Reynolds, Clerk Kile

Pence stated that the grant is for \$192,000.00 and that the county match is \$43,000.00 for the addressing model system to be implemented.

Reynolds stated that this document is a statement of work that will put all of the funding into place on the state side; with the \$192,000.00 being funneled through Reynolds for his contract.

Commissioner Lauman made a **motion** to approve the document for signature for the statement of work with the Montana Land Information Act 2008 Grant. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

IMPACT FEE COMMITTEE RECOMMENDATION RE: FEASIBILITY ANALYSIS

[9:17:24 AM](#)

Members present:

Commissioner Gary D. Hall P.T.
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Assistant Planning & Zoning Director B J Grieve,
Clerk Kile

Grieve reported that the Impact Fee Advisory Committee met to consider impact fees for jail facilities. The information was collected in regards to what documentation Flathead County has regarding future jail facilities. This information was sent to Tischler for advise, and after reviewing it he found that the amount of existing data sent to him was not sufficient; with additional research needing to be done to satisfy law requirements. The Impact Fee Advisory Committee has determined that the best way to proceed would be to have a Feasibility Study done and are asking approval from the Commission to do so at the price of \$8,500.00.

Commissioner Lauman made a **motion** to approve the Impact Fee Feasibility Study agreement to be done by Fischlerbise, Inc and authorized the Chairman to sign. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

MONTHLY MEETING W/ JEFF HARRIS, PLANNING & ZONING OFFICE

[9:32:17 AM](#)

Members present:

Commissioner Gary D. Hall P.T.
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Assistant Planning & Zoning Director B J Grieve,
Clerk Kile

Harris reported that the Flathead Basin Commission contributed \$5,000.00 to assist with the Bigfork storm water drain system. He then presented a progress report in regards to a draft agreement for a traffic study; that will be a full comprehensive study that will incorporate Phase I into it; MDOT will contribute to the cost of this study also. Harris then reported on the Subdivision Regulation Workshops that have been taking place and will continue until September 20, 2007, with the Planning Board and the public.

PUBLIC HEARING: MIDWAY RENTAL ZONE CHANGE/ EVERGREEN & VICINITY ZONING DISTRICT

[10:03:20 AM](#)

Members present:

Commissioner Gary D. Hall P.T.
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Planning & Zoning Director Jeff Harris, Planner George Smith, Erica Wirtala, Maynard Longtin, Clerk Kile

Smith reviewed Staff Report FZC 07-01, in which the applicant Jerry Engle, Maynard Longtin, KK & B Partnership; DBA Midway Rental with technical assistance from Sands Surveying proposes an amendment to the Evergreen Zoning District Map, requesting a zone change for six parcels totaling four acres on Sunset Drive and Judith Road, from the existing R-2 one family limited residential to a B-2 general business zone. The proposed zone change is substantially consistent with the current and planned land designations for this area as identified in the Kalispell City-County Planning Jurisdiction Master Plan Map, and the Kalispell growth policy Future Land Use Map. The property uses are currently varied; a mix of residential and pre-existing non-conforming business and light industrial uses.

Commissioner Hall PT opened the public hearing to anyone wishing to speak in favor or opposition of the zone change.

Erica Wirtala commented that the three applicants are already existing businesses and that this zone change is basically for house cleaning purposes.

No one else rising to speak Commissioner Hall PT closed the public hearing.

Commissioner Lauman made a **motion** to adopt Resolution #797EL. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

RESOLUTION NO. 797 EL

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 24th day of July, 2007 to consider a request by Jerry Engle, Maynard Longtin KK&B Partnership, DBA Midway Rental, to change the zoning designation in a portion of the Evergreen and Vicinity Zoning District from R-2 (One Family Limited Residential) to B-2 (General Business);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on July 28 and August 4, 2007;

WHEREAS, the Board of Commissioners received public comment on the proposed zoning change; and

WHEREAS, the Board of Commissioners reviewed the recommendations of the Flathead County Planning Board regarding the proposed change in the Evergreen and Vicinity Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning for a portion of the area in the Evergreen and Vicinity Zoning District from R-2 to B-2, that area being described on Exhibit "A" hereto.

BE IT FURTHER RESOLVED that notice of the passage of this resolution, stating the boundaries of the portion of the Evergreen and Vicinity Zoning District to be changed, the general character of the proposed change in regulations for the area, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Evergreen and Vicinity Zoning District, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests will be received from persons owning real property within the Evergreen and Vicinity Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

BE IT FURTHER RESOLVED that if forty per cent (40%) of the freeholders within the Evergreen and Vicinity Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 9th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: _____
Joseph D. Brenneman, Chairman

By: /s/Gary D. Hall P.T.
Gary D. Hall, Member

ATTEST:
Paula Robinson, Clerk

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

By: /s/Diana Kile
Diana Kile, Deputy

EXHIBIT A MIDWAY RENTAL ZONE CHANGE

A Zone Change request in the Evergreen Zoning District, by Jerry Engle, Maynard Longtin and KK and B Partnership (Midway Rental), from R-1 (Suburban Residential) to B-2 (General Business). The property is located at 21 and 23 Sunset Drive and can legally be described as follows:

Tract 1: Lot 5 of Block 1 of Larson's Acres

Excepting therefrom the Northerly 133.40 feet of said lot 5

Tract 2: The North 133.4 feet of Lots 5 and 6 of Block 1 of Larson's Acres

Tract 3: The South 266.6 feet of Lot 6 of Block 1 of Larson's Acres

Tract 4: Lot 7 of Block 1 of Larson's Acres

Tract 5: Lot 8 of Block 1 of Larson's Acres

All according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

COS REVIEW: GUIER

10:15:56 AM

Members present:

Commissioner Gary D. Hall P.T.

Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Planning & Zoning Director Jeff Harris, Planner Kirsten Holland, Keith Guier, Olaf Irving, Clerk Kile

Holland reviewed the Guier family transfer request and the chain of title. She then stated that the area is remote in a high fire area and questions why lot 3 needs to be isolated.

Olaf Irving said the reason for the configuration is because of existing roads and easements. He then said additional easements will be recorded to provide access.

Keith Guier stated the reasons he wishes to give property to his children.

Commissioner Lauman made a **motion** to approve the Guier family transfer. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

PUBLIC HEARING: CREATION OF TALLY/ BISSELL ZONING DISTRICT

10:35:00 AM

Members present:

Commissioner Gary D. Hall P.T.
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Planning & Zoning Director Jeff Harris, Planner Kirsten Holland, Planner Annie Thompson, Eric Kaplan, Narda Wilson, Wendi Rice, Robert Rice, Lori Hustwaite, Michele Larsen, John Klassner, Dick Bevill, Jon Capon, Chris Evans, Greg Lee, Kevin Phillips, Rachel Phillips, Tom Courtney, Sue Courtney, Kent Harrison, Tom Tornow, Tony Martin, Bret Martin, Don Hanks, Wendy Hanks, Tammy K. Fox, Clerk Kile

Thompson reviewed Staff Report FZD 07-02 in which the proposal is to establish zoning to the east of Blanchard Lake zoning district. The approximate boundaries of the proposed zoning district are Farm to Market Road to the west and south, Lodgepole Road to the east, and Twin Bridges Road to the north. This area is currently unzoned and this proposal would establish SAG-10 zoning.

On July 11, 2007, the Flathead County Planning Board held a public hearing to consider the establishment of Tally/ Bissell zoning district.

Commissioner Hall PT opened the public hearing to anyone wishing to speak in favor or opposition of the creation of the zoning district.

Narda Wilson, 184 Midway Drive, representing the Tally/Bissell neighborhood in putting together a zoning district stated that they tried to create boundaries based on a broad consensus of people that were interested in zoning. The properties that were left out of the zoning were properties on the peripheral of these boundaries, yet still allowed them to create a cohesive zoning district. Wilson then showed on a map the properties that were excluded from the zoning district that was a fairly easy fix to leave out. She then noted that after several conversations with Don Millerman that he saw no benefits one way or the other in being included in the zoning district. It was stated that as a neighborhood they have engaged in productive dialogue with Mr. Hayes, in that he has indicated a strong willingness to re-locate the facility if the neighborhood could find the right property for him to locate a gun club. She then said that they are hoping that ultimately that will be the resolution and also asked the Commission to approve the zoning boundaries as presented.

John Klassen, 5680 Farm to Market Road, spoke in favor of the zoning request.

Michelle Larson, 5650 Farm to Market Road, a direct neighbor of Mr. Hayes and John Klassen's spoke in full favor of the zoning request. She then spoke about the high water table and her concern with septic systems polluting the rivers if the density becomes too high for the area. She then said that it has been a rural quiet area for her and that she was attracted to the area because of the small rural country school.

Tom Courtney, 407 Beaver Creek Ranch Road, stated that he is outside the zoning area, but that his property abuts to it. He then spoke in favor of the zoning and said that his neighbors that were unable to be there were also in favor of the request.

Robert Rice, 5838 Farm to Market Road, a resident in the proposed zoning district spoke in favor of the zoning request.

Lori Hustwaite, 230 Tally Lake Road, stated that the zoning proposal is good and will still allow for growth and protect property values and the way of life in the area.

Greg Lee, 5875 Farm to Market Road, spoke in favor of the proposed zoning district.

Wendy Hanks, 700 Lodgepole Road, stated that they enjoy the peace and quiet there with it being a great place to raise kids, and spoke in favor of the proposed zoning district.

Tom Tornow, 309 Wisconsin Avenue, said that he and his wife own property approximately one half mile outside the proposed zoning district and are subject to covenants that are consistent with the proposed district. He then said that Narda Wilson did a good job in building consensus within the neighborhood and spoke in support of the proposed zoning.

Tony Martin, 5398 Farm to Market Road, questioned how the zoning would be done, in which he was told it would follow the proposed zoning district lines.

Eric Kaplan, representing Tally/Bissell stated that he was prepared to answer any questions if they arise. He then commended the Planning Office, Planning Board and Narda Wilson.

No one else rising to speak Commissioner Hall PT closed the public hearing.

Commissioner Hall questioned the Blanchard Lake Zoning District in regards to density and the parcels that are being left out.

Commissioner Hall asked Planner Thompson if Mr. Hayes had requested to be left out of the proposed zoning district, in which Thompson replied, no.

Commissioner Lauman stated that he would be willing to approve the request from Silver Sky Ranch, in regards to excluding him from the district.

Discussion was then held relative to leaving the ranch out of the district.

Narda Wilson stated that the zoning boundaries create a cohesive neighborhood and that when she talked to Mr. Laird, he didn't seem strongly opposed to the zoning. She then stated that the last time she talked to him he was un-settled on his decision and would like to see boundaries remain intact.

Eric Kaplan stated that zoning is about communities, not individuals. He then read a Supreme Court decision that states: The purpose of zoning is not to provide for the highest or best use of each particular lot or parcel of land, rather it is to benefit the community generally, by sensible planning of land uses taken into consideration, peculiar suitabilities and most appropriate use of land throughout the community. Kaplan then said that the point is that they tried to draw the boundaries that would take into account the needs, desires, attributes and characteristics of the entire area without regard to looking at each particular piece of property.

Commissioner Lauman then said that some of the zoning projects have come about because of an event that has happened in the area, and that it is unfortunate that it takes something like this to realize we have a real nice area to live in that we enjoy, but as long as nobody rocks that boat, it's okay. He then said in other areas of the county it would be nice if everyone in the county would look at their area and say we like what we have, so maybe we should do something about it with a neighborhood plan or zoning. Lauman said that it is unfortunate, because it causes controversy and pits neighbors against neighbors.

Commissioner Hall stated that if Mr. Hayes was here and had a group protesting the proposed zoning district, that it would maybe change his decision.

Commissioner Lauman made a **motion** to adopt Resolution #2085 to create the Tally/ Bissell Zoning District and authorized the publication of the Notice of Passage of Resolution of Intent, authorizing the Chairman to sign. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

RESOLUTION NO. 2085

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 9th day of August, 2007, concerning the creation of a new zoning district to be known as the Tally/Bissell Zoning District;

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on July 29 and August 5, 2007;

WHEREAS, the Board of Commissioners heard public comment on the proposed creation of that zoning district at that hearing; and

WHEREAS, the Board of Commissioners has reviewed the recommendation of the Flathead County Planning Board regarding the creation of the Tally/Bissell Zoning District.

NOW THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to create the Tally/Bissell Zoning District with boundaries as set forth on Exhibit A, and to zone the area described on Exhibit A as SAG-10 (Suburban Agricultural), as that classification is defined in the Flathead County Zoning Regulations.

BE IT FURTHER RESOLVED, that notice of the passage of this resolution, stating the boundaries of the proposed zoning district, the general character of the proposed zoning regulations, that said regulations are on file in the Clerk & Recorder's Office, and that for (30) days after the first publication thereof, the Board will receive written protests to the creation of the Tally/Bissell Zoning District, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests will be received from persons owning real property within the proposed Tally/Bissell Zoning District for a period of (30) days after the first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

BE IT FURTHER RESOLVED that if forty percent of the free-holders protest the proposed creation of the Tally/Bissell Zoning District, then that zoning district will not be created.

DATED this 9th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: _____
Joseph D. Brenneman, Chairman

By: /s/Gary D. Hall P.T.
Gary D. Hall, Member

ATTEST:
Paula Robinson, Clerk

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

By: /s/Diana Kile
Diana Kile, Deputy

A Zoning request to establish the Tally/Bissell Zoning District, by Narda Wilson on behalf of residents of the area. The area is currently unzoned and the proposal would establish SAG-10, (Suburban Agricultural) zoning east of Farm to Market Road, west of Lodgepole Road and south of Twin Bridges Road in the northwest Whitefish area. The property can legally be described as follows:

Tracts of land situated, lying and being in Sections 7, 18 and 19 of Township 30 North, Range 22 West P.M.M., Flathead County, Montana, more particularly described as follows:

Commencing at the northernmost corner of Parcel 1 of COS 11370 and the intersection of the south R/W boundary of Twin Bridges Road in Section 7; thence southerly along the boundary of said Parcel 1, S00°03'30"W a distance of 640.99 feet to the northeast corner of the SE ¼ of the NW ¼ of Section 7; thence westerly along the north boundary of Parcel 1 of COS 11370, S89° 49'30"W, a distance of 1323.94 feet to the northwest corner of the SE ¼ of the NW ¼; thence northerly along the east line of the NW ¼ of the NW ¼ to the southeast corner of Tract 2 of COS 11100; thence westerly along the south boundary of Tract 2 of COS 11100, a distance of 1241.92 feet to the east R/W boundary of Montana Highway 424; thence southerly along said east R/W boundary to its intersection with the west line of Section 7; thence southerly along the west section line to the southwest corner of the SW ¼ of the NW ¼; thence easterly along the center section line to the southeast corner of the SE ¼ of the NW ¼ of Section 7; thence southerly along the center line of Section 7 to the southwest corner of the NW ¼ of the SE ¼; thence continuing southerly along the center section line to south line of Section 7; thence westerly along the south line of Section 7 and the north line of Section 18 to the northwest corner of NE ¼ of the NW ¼ of Section 18;

thence southerly along the west line of the NE ¼ of the NW ¼ to the southwest corner of the NE ¼ of the NW ¼;

thence westerly along the north line of the SW ¼ of the NW ¼ to the west section line of Section 18;

thence southerly along the west section line to the southwest corner of the SW ¼ of the NW ¼;

thence easterly to the southeast corner of the SW ¼ of the NW ¼;

thence southerly along the west line of the NE ¼ of the SW ¼ and the SE ¼ of the SW ¼ to the south section line of Section 18 and the northwest corner of the NE ¼ of the NW ¼ of Section 19; thence continuing southerly along the west line of the NE ¼ of the NW ¼ of Section 19 to the southwest corner of the NE ¼ of the NW ¼; thence easterly along the south line of the NE ¼ of the NW ¼ to the southeast corner of the NE ¼ of the NW ¼; thence northerly along the east line of the NE ¼ of the NW ¼ to the southwest corner of Lot 1 of Subdivision No. 257; thence along the southern boundary of said Lot 1 the following four courses:

N89°38'29"E a distance of 724.17 feet; thence N57°51'21"E a distance of 241.02; thence N22°05'55"W a distance of 348.79 feet; thence N62°35' 13"E a distance of 834.54 feet to the west R/W boundary of Montana Highway 424; thence continuing N62°35'13"E a distance of 60 feet, more or less, to the east R/W boundary of Montana Highway 424; thence southeasterly along the east R/W boundary of Montana Highway 424 to the northwest corner of Tract 1 of COS 10251; thence continuing southerly along the east R/W boundary to the southeast corner of said Tract 1 and the intersection of the east R/W boundary and the east line of Section 19; thence northerly along the east section lines of Section 19, 18 and 7 and the approximate center line of Lodgepole Road to the northeast corner of the NE ¼ of the SE ¼ of Section 7; thence continuing northerly along the east boundary of Section 7 to the northeast corner of Parcel B of COS 10999, also known as the South ½ of the SE ¼ of the NE ¼; thence westerly to the northwest corner of Parcel B of COS 10999; thence northerly along the east boundary of Parcel 2 of COS 11370 to the northeast corner of said Parcel 2 and the south R/W boundary of Twin Bridges Road; thence westerly and northwesterly along the north boundary of Parcel 2 and Parcel 1 of COS 11370 and the south R/W boundary of Twin Bridges Road to the Point of Beginning.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION
TALLY/BISSELL ZONING DISTRICT

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intent (Resolution No. 2085) on August 9, 2007, to create the Tally/Bissell Zoning District pursuant to Section 76-2-206, M.C.A.;

The boundaries of the proposed Tally/Bissell Zoning District are set forth on Exhibit A hereto.

The proposal is to zone the property located along a portion of the east of Farm to Market Road, west of Lodgepole Road and south of Twin Bridges Road in the northwest Whitefish area, as SAG-10 (Suburban Agricultural). The general character of the zoning district, if adopted, provides for the protection and preservation of agricultural land for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential friction of uses will be minimized, and to provide areas of estate-type residential development.

The proposed zoning district would be regulated by the Flathead County Zoning Regulations. The regulations are on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 9327013500.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the adoption of the proposed Tally/Bissell Zoning District, and the regulations therefor, from persons owning real property within that proposed district, whose names appear on the last completed assessment role of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 9th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Gary D. Hall PT
Joseph D. Brenneman, Chairman

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile

Diana Kile, Deputy

Publish on August 14 and August 21, 2007.

TALLY / BISSELL ZONING DISTRICT
"EXHIBIT A"

A Zoning request to establish the Tally/Bissell Zoning District, by Narda Wilson on behalf of residents of the area. The area is currently unzoned and the proposal would establish SAG-10, (Suburban Agricultural) zoning east of Farm to Market Road, west of Lodgepole Road and south of Twin Bridges Road in the northwest Whitefish area. The property can legally be described as follows:

Tracts of land situated, lying and being in Sections 7, 18 and 19 of Township 30 North, Range 22 West P.M M., Flathead County, Montana, more particularly described as follows:

Commencing at the northernmost corner of Parcel 1 of COS 11370 and the intersection of the south R/W boundary of Twin Bridges Road in Section 7; thence southerly along the boundary of said Parcel 1, S00°03'30"W a distance of 640.99 feet to the northeast corner of the SE ¼ of the NW ¼ of Section 7; thence westerly along the north boundary of Parcel 1 of COS 11370, S89° 49'30"W, a distance of 1323.94 feet to the northwest corner of the SE ¼ of the NW ¼; thence northerly along the east line of the NW ¼ of the NW ¼ to the southeast corner of Tract 2 of COS 11100; thence westerly along the south boundary of Tract 2 of COS 11100, a distance of 1241.92 feet to the east R/W boundary of Montana Highway 424; thence southerly along said east R/W boundary to its intersection with the west line of Section 7; thence southerly along the west section line to the southwest corner of the SW ¼ of the NW ¼; thence easterly along the center section line to the southeast corner of the SE ¼ of the NW ¼ of Section 7; thence southerly along the center line of Section 7 to the southwest corner of the NW ¼ of the SE ¼; thence continuing southerly along the center section line to south line of Section 7; thence westerly along the south line of Section 7 and the north line of Section 18 to the northwest corner of NE ¼ of the NW ¼ of Section 18;

thence southerly along the west line of the NE ¼ of the NW ¼ to the southwest corner of the NE ¼ of the NW ¼;

thence westerly along the north line of the SW ¼ of the NW ¼ to the west section line of Section 18;

thence southerly along the west section line to the southwest corner of the SW ¼ of the NW ¼;

thence easterly to the southeast corner of the SW ¼ of the NW ¼;

thence southerly along the west line of the NE ¼ of the SW ¼ and the SE ¼ of the SW ¼ to the south section line of Section 18 and the northwest corner of the NE ¼ of the NW ¼ of Section 19; thence continuing southerly along the west line of the NE ¼ of the NW ¼ of Section 19 to the southwest corner of the NE ¼ of the NW ¼; thence easterly along the south line of the NE ¼ of the NW ¼ to the southeast corner of the NE ¼ of the NW ¼; thence northerly along the east line of the NE ¼ of the NW ¼ to the southwest corner of Lot 1 of Subdivision No. 257; thence along the southern boundary of said Lot 1 the following four courses:

N89°38'29"E a distance of 724.17 feet; thence N57°51'21"E a distance of 241.02; thence N22°05'55"W a distance of 348.79 feet; thence N62°35' 13"E a distance of 834.54 feet to the west R/W boundary of Montana Highway 424; thence continuing N62°35'13"E a distance of 60 feet, more or less, to the east R/W boundary of Montana Highway 424; thence southeasterly along the east R/W boundary of Montana Highway 424 to the northwest corner of Tract 1 of COS 10251; thence continuing southerly along the east R/W boundary to the southeast corner of said Tract 1 and the intersection of the east R/W boundary and the east line of Section 19; thence northerly along the east section lines of Section 19, 18 and 7 and the approximate center line of Lodgepole Road to the northeast corner of the NE ¼ of the SE ¼ of Section 7; thence continuing northerly along the east boundary of Section 7 to the northeast corner of Parcel B of COS 10999, also known as the South ½ of the SE ¼ of the NE ¼; thence westerly to the northwest corner of Parcel B of COS 10999; thence northerly along the east boundary of Parcel 2 of COS 11370 to the northeast corner of said Parcel 2 and the south R/W boundary of Twin Bridges Road; thence westerly and northwesterly along the north boundary of Parcel 2 and Parcel 1 of COS 11370 and the south R/W boundary of Twin Bridges Road to the Point of Beginning.

MEETING W/ VIRGINIA SLOAN FROM SENATOR TESTER'S OFFICE

11:27:10 AM

Members present:

Commissioner Gary D. Hall

Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, Virginia Sloan, Clerk Kile

Virginia Sloan a representative from Senator Tester's office spoke in regards to challenges the Flathead Valley is facing with the growth that is happening. Discussion was held relative to infrastructure, sewage treatment facilities, paving and road dust.

Commissioner Lauman stated that the biggest thing that she could do for the Commission would be to portray to Senator Tester the concerns with water and sewer districts, dust, roads and highway safety.

Discussion included the forest fires and the impacts of them to Glacier Park and small businesses as well as the possibility of the fires being a catalyst to get the release of timber in Montana.

MEETING W/ BOB O'NEIL & GIL JORDEN RE: PRESENTATION OF EXHIBIT MODEL/ CENTRAL SCHOOL MUSEUM

11:47:19 AM

Members present:

Commissioner Gary D. Hall

Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, Bob O'Neil, Gil Jordan, Clerk Kile

Bob O'Neil stated that the dream of the board has been to present the history of Montana and in doing that they are putting together a comprehensive exhibit that more fully tells the story of the Flathead Valley.

Gil Jordan then outlined the theme of the exhibit that will tell an audio story of how people got to the Flathead, about the communities, personal stories of families and individuals that reveal the character of our area, the early schools and post offices, Native American presence and their influence in the valley and a timeline of major happenings in the valley from the early 1600 to where we are today.

Discussion was held relative to Flathead County and Cenex putting their stamp of approval with possible funding as a major sponsor.

2:00 p.m. Commissioner Lauman to AOA Board meeting @ Kalispell Sr. Center
4:00 p.m. Long Range Planning Task Force Land Use Committee meeting @ Solid Waste District Conference Room
7:00 p.m. Fair Board meeting @ Fair Office

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

FRIDAY, AUGUST 10, 2007

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

9:00 a.m. Commissioners' Budget Workshop

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on August 13, 2007.
