

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
NOVEMBER 12, 2014**

**CALL TO
ORDER
6:04 pm**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Tim Calaway, Noah Bodman, Ron Schlegel, Gene Shellerud, Jim Heim, Jeff Larsen and Greg Stevens. BJ Grieve, Alex Hogle and Lawson Moorman represented the Flathead County Planning & Zoning Office.

There were 37 people in the audience.

**APPROVAL OF
MINUTES
6:06 pm**

Calaway made a motion, seconded by Heim to approve the October 8, 2014 meeting minutes, September 24, 2014, October 1, 2014, and October 15, 2014 workshop minutes.

Shellerud questioned if Hickey-AuClaire could sign minutes for a meeting she did not attend.

On a roll call vote the motion passed unanimously.

**PUBLIC
COMMENT
(not related to
agenda items)
6:07 pm**

None.

**CONSIDERATION
OF RECOM-
MENDATION TO
FLATHEAD
COUNTY
COMMISSIONERS
REGARDING
LAKE AND
LAKESHORE
PROTECTION
REGULATIONS
FOR RURAL
PROPERTIES
ON WHITEFISH
AND LOST
COON LAKES
6:07 pm**

Grieve summarized at length the history of the process followed to this point including workshops and previous meetings. He said they had placed all the public comments received after the 9/24/14 workshop through five pm on November 12, 2014 before the board. He reviewed what was included in the public comment. He urged the board to adequately review the public comment including what was received at this meeting. He gave options for the board to assure adequate consideration was given.

Heim and Grieve discussed which documents were referenced in the options document presented to the board and if the Lake and Lakeshore Regulations needed to follow a plan like the Whitefish transition needed to follow the Growth Policy.

Hickey-AuClaire reviewed procedure with Grieve.

Grieve discussed the office procedure for acceptance and distribution of public comment to the board.

Hickey-AuClaire and Grieve discussed procedure at length again.

Stevens said he was going to make a motion after the public hearing period to discuss procedure and asked if that was appropriate.

Hickey-AuClaire said she felt they needed the motion and quickly conferred with the board as to how they wanted to proceed.

The board decided to continue with the public hearing on this issue.

**AGENCY
COMMENTS**

Dave Taylor, Whitefish City Planning Director, wanted to reiterate the city of Whitefish supported the continuance of separate regulations for Whitefish and Lost Coon Lakes. The city was going to enforce its adopted Lake and Lakeshore regulations on its portions of the lake which was almost half of the properties around the lake. He noted for the board Whitefish had jurisdiction over the entire lakes to the low water mark. Any docks or waterlines for which permits were applied for outside the city limits were still under Whitefish jurisdiction, so they thought it best to not have two sets of regulations on the lake administered separately. Some people would have non-conforming lots when they were annexed into the city. They thought it was better to work with one set of regulations. They also continued to support the Whitefish Lake and Lakeshore Regulation Committee (WFL LPC). They had done a good job over the years working with both the county and Whitefish.

**PUBLIC
COMMENT**

Hickey-AuClaire polled the audience concerning how many were planning on commenting on this agenda item.

Rebecca Norton, 530 Scott Avenue, Whitefish, passed to the board a handout and read it aloud. The handout contained information on streams which had been contaminated by development, the need to keep Whitefish Lake as pristine as possible, the need for the WFL LPC and the threat of a spill from the railway on one side of the lake. She preferred Whitefish oversight.

Charles Abell, 5 Woodland Place, gave his history concerning the Whitefish area lakes and participation in legislation concerning

lakeshore protection. He read from Montana Code Annotated several passages concerning lakeshore. He didn't see why there was now an issue with how Whitefish and Lost Coon Lake had been run before. He felt every lake had uniqueness and should have a committee which would make recommendations on applications.

Orin Webber, 460 Orchard Ridge, said the county had more pressing issues and should leave things the way they were.

Karen Reeves, 230 Missy Lane, preferred Whitefish oversight, option four. The people in Whitefish were involved in what happened in their community and she wanted to keep the WFLPC.

Koel Abell, 355 Lost Coon Trail, was the last person appointed to the WFLPC. He said he didn't understand why they were here. If it isn't broken, don't fix it. It was not a perfect system, but it worked, he liked option four. The current Whitefish regulations were not overly regulatory. The same things were in the County regulations. He quoted some differences between the two regulations in which Whitefish was more lax. There was definitely bad blood between the city and county. This was a great opportunity to fix the system and have the two work together. He encouraged the board to read over the comment Herb Peschell put together.

Erica Mortenson, Citizens for a Better Flathead, passed the board a handout and proceeded to read it. The handout included encouraging the county to work with Whitefish and the WFLPC.

Bob Brown, 333 Cougar Trail, reviewed his history concerning legislation concerning lake and lakeshores. He also revealed the thinking behind the legislation. He felt the WFLPC was an example of government working closely with the people. He was confused as to why this was an issue. He agreed with Koel Abell. The lakeshore regulations had become a victim of the Whitefish Donut controversy. The committee had been a positive thing. He was hopeful the board would adopt either proposal three or four.

Ron Hauf, 2834 Rest Haven Drive, gave a history of what had gotten him involved in the WFLPC. There had been a lot of cooperation between the city and county concerning the

lakeshore regulations. This wasn't about the city or county it was about the lake and lake quality. He asked the board to read the package submitted by Herb Peschell. He wanted the board to work with the city. He preferred option three and four, otherwise option five. He wanted to leave the lake in an equal or better condition than he found it. He hoped the board would come up with a decision which would work well for both the city and the county.

Marcia Sheffels, 450 Parkway Drive, thanked the board for having another opportunity for commenting on the lake and lakeshore regulations. She relayed her history of serving on the WFLPC. The quality of the lake, lakeshore and water was most important. Twenty years ago growth precipitated more regulations due to concern over water quality. The joint committee had worked well. She asked if there wasn't a joint committee what the lake would look like now. She wanted the board to consider option four. She went through the pros and cons. She wanted to repeat what other people had said and appreciated the board's time.

MAIN MOTION
*(Discuss
Procedure)*

Stevens made a motion seconded by Larsen to discuss procedure concerning a recommendation to the Flathead County Commissioners regarding lake and lakeshore protection regulations for rural properties on Whitefish and Lost Coon Lakes.

**BOARD
DISCUSSION**

Larsen wanted to delay a recommendation to a future meeting. He wanted to spend more time on the public comment received.

Bodman agreed and said there were other items on the agenda.

The board discussed if they wanted to postpone a recommendation to the commissioners to a future meeting.

The board and Grieve discussed what the December 10, 2014 agenda looked like for the Planning Board meeting and how they wanted it to be placed on the agenda and if they wanted the hearing part closed.

**SECONDARY
MOTION**
*(Postpone
discussion and
recommendation)*

Stevens made a motion seconded by Larsen to postpone discussion and recommendation to the Flathead County Commissioners until the December 10, 2014 Planning Board meeting.

*until December
10, 2014
meeting)*

**ROLL CALL
VOTE**
*(Postpone
discussion and
recommendation
until December
10, 2014
meeting)*

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Hickey-AuClaire reviewed process for the audience.

Hickey-AuClaire and Grieve discussed process.

**FLATHEAD
COUNTY
PLANNING
BOARD TEXT
AMENDMENT –
HOME
OCCUPATION**
*(FZTA-14-01)
7:04 pm*

A request by the Flathead County Planning Board for an amendment to the text of the Flathead County Zoning Regulations (regulations) to revise the performance standards regarding home occupations based on the Planning Board's discussion at a Planning Board workshop on February 24, 2014. The general character of the specific proposed amendment is:

Changes to restrictions on vehicle traffic for a home occupation currently found in Section 5.06.020(1)(E), and allowing for additional vehicle traffic when the home occupation is reviewed as a conditional use permit by adding Section 5.06.020(2)(C).

This amendment was originally recommended for approval to the Flathead County Commissioners by the Planning Board on September 10, 2014. On September 18, 2014 the Flathead County Commissioners voted to return this text amendment to the Planning Board for additional consideration and specifically to look at allowing additional vehicle traffic for home occupations in agricultural areas of large lot zoning such as AG-40.

STAFF REPORT

Grieve reviewed Staff Report FZTA-14-01 and why the application was before the Board again.

**BOARD
QUESTIONS**

Callaway and Grieve discussed if paved or gravel road language had worked its way into the amendment. Accommodating individual needs for traffic on different roads was left at a conditional use permit level.

Larsen asked if the commissioners threw out any numbers they wished the board to contemplate for traffic.

Grieve read from the commissioners' minutes in answer to the question.

The board discussed the minutes and the intent for more types of home occupations in the agricultural zones.

Grieve went on to explain the intent to provide rural, agricultural land owners more options to allow them to generate additional revenue streams so they could keep the farms.

Heim and Grieve discussed how vehicle trips were counted.

Hickey-AuClaire asked Grieve to pull up the text amendment for the public in attendance.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Hickey-AuClaire confirmed no more written public comments had been received.

Erica Mortenson, Citizens for a Better Flathead, passed the board a handout and read the paper. They were against increasing trips for home occupations.

**STAFF
REBUTTAL**

Grieve stated findings of fact would need to be changed if they changed the trips per day. He read the legal notice for the public hearing.

Hickey-AuClaire and Grieve discussed procedure of what the application would go through from this point on.

Bodman and Grieve discussed how the noticed legal would affect discussion.

Hickey-AuClaire and Grieve discussed procedure again.

Heim and Grieve discussed if there was any public input which asked for more public trips and what had happened before the commissioners.

Hickey-AuClaire and Grieve discussed procedure again.

**SECONDARY
MOTION**
*(Consider
Commissioners'
suggestion)*

Larsen made a motion seconded by Bodman to consider the Commissioners' suggestion.

**BOARD
DISCUSSION**

Stevens said he had learned something new concerning how vehicle trips were counted. He did not see where cities had any zoning with 20 acre parcels so he did not agree with Citizens for a Better Flathead's comment concerning sticking with what the cities did with home occupations. His thought was to double the vehicle trips for the AG-20 and AG-40 zones because they were lower density and lower opportunities for home occupations. He did not think they would have a big impact. There were starting to be small track agriculture based parcels.

The board discussed vehicle trips, how they were counted and upping the count.

Bodman disagreed with finding of fact #9 that said the text amendments were not compatible. They were not identical which did not necessarily mean they were incompatible. He went on to explain why. He asked to see the definition of Home Occupation.

Grieve and the board discussed the definition of home occupations, vehicle trips and the use of a conditional permit.

Grieve said if the board wanted to make an amendment, they were under no hurry. It was a Planning Board text amendment. Staff could work on the amendment taking into consideration the discussion and bring back the text amendment as a brand new amendment at a later date. It would be the cleanest way forward.

Larsen discussed finding of fact #9 and the difficulty of making home occupations identical to the cities definition. He felt a good point had been raised concerning the upping of vehicle trips for the AG zones. He agreed with Grieve for staff to take back the amendment, work on it then bring it back to the board.

The board discussed options for the amendment.

Hickey-AuClaire and Grieve discussed procedure for having staff rework finding of fact # 9.

The board and Grieve discussed finding of fact #9, options for the definition of home occupation and if staff could rework the text amendment.

Grieve clarified for the audience staff would modify the text amendment as the board stated, reassess the findings of fact and place the text amendment on the January 14, 2015 Planning Board agenda.

**BOARD
DISCUSSION
7:47pm**

The board took a five minute break.

**LANE ROSS
(FLP-14-77)
7:53 pm**

A request by Lane Ross for an after-the-fact lakeshore construction permit to bring into compliance previously completed mechanized aquatic weed removal adjacent to and stock piling on three properties located on Little Bitterroot Lake. The mechanized removal of aquatic weeds within the waters of Little Bitterroot Lake and the stockpiling of these weeds within the Lakeshore Protection Zone (LPZ) have been determined by the Planning Director to create a significant impact requiring Planning Board review and recommendation to the Flathead County Commissioners, per Section 3.2(C)(b) of the Flathead County Lake and Lakeshore Protection Regulations. The properties are located at 795 Lodgepole Drive, 815 Lodgepole Drive and 805 Lodgepole Drive in Marion, MT.

STAFF REPORT

Moorman reviewed Staff Report FLP-14-77 for the Board.

**BOARD
QUESTIONS**

Larsen and Moorman discussed what would happen if the permit was denied.

Heim, Moorman and Grieve discussed if other people would need to come before the board for a similar permit if this permit was granted.

Grieve said this application was establishing sideboards for something new which the office did not know how to handle. He went on to explain.

Calaway and Moorman discussed if the types of weeds would be identified for permits or if it would be more of a size of the project determination.

The board and Moorman discussed the scope of the project which would be acceptable and how much could be cleared by hand.

Schlegel and Moorman discussed if Fish, Wildlife and Parks was involved.

Shellerud and Grieve discussed who would set the parameters for the mowing and process for the permit.

**APPLICANT
PRESENTATION**

Lane Ross, applicant, passed the board handouts and relayed the policy concerning mowing after this issue. They will go to Fish and Game, have someone come out and look at the area, show them what they wanted to do and receive their input. They would have the paperwork to show the Planning Office when they applied for the permits. What they needed was a fast turnaround for the permits due to the short time available for cutting of the weeds. The weeds were owned by the people who hired them. The limits would be set by Fish and Game unless the board wanted to become more involved. He had always strived to maintain good relationships with Fish and Game. For a workable solution, he needed a turnaround time of approximately two weeks. As far as he understood, manmade lakes were acceptable to cut and he clarified with Grieve the size of lake which would need a permit and if manmade lakes were exempt. He commended Moorman for the work he had done. He said if the board had any suggestions on how to improve the process to please contact him. They did not dredge, all they did was cut.

**BOARD
QUESTIONS**

Stevens and Ross discussed the visual aid.

Calaway and Ross discussed how much he needed to do to make the job worth his while.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

None.

**APPLICANT
REBUTTAL**

Ross said he had nothing new to add. He said the staff was very helpful. It was a case of government and industry working together.

**STAFF
REBUTTAL**

None.

**BOARD
DISCUSSION**

Schlegel and Grieve discussed if staff was fine with Ross going to Fish and Game before coming to the planning office.

Grieve said process would be rapidly established concerning these applications.

**MAIN MOTION
TO ADOPT
F.O.F.
(FLP-14-77)**

Stevens made a motion seconded by Larsen to adopt staff report FLP-14-77 as findings-of-fact.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
ADOPT F.O.F.
(FLP-14-77)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
DENIAL OF
CONDITIONS
(FLP-14-77)**

Stevens made a motion seconded by Schlegel to adopt Staff Report FLP-14-77 and recommend denial to the Board of County Commissioners.

**BOARD
DISCUSSION**

Stevens commented the area of Bitterroot Lake was a disaster. The owners did not have lakeshore, they had a lake view. That was why people put out boards to be able to get boats out to the water. Ross's service was a benefit to them. He recognized the fact that by mowing there probably was some impact. He thought all in all if the people could get some relief from those conditions it would be a wonderful thing. He did not think the precedent should be set for taking the tops off of everything for hundreds of feet by granting him an after the fact permit.

Schlegel said he had been on the lake since the '60s and the weeds had tripled since that time.

**ASK THE
QUESTION**

Calaway asked the question.

**ROLL CALL TO
RECOMMEND
DENIAL
(FLP-14-77)**

On a roll call vote the motion passed unanimously.

**WETTINGTON
ACRES PH II
(FPP-14-01)
9:47 pm**

A request by Wayne & Peggy Turner for Preliminary Plat approval of Wettington Acres, Phase 2, a 40-lot residential subdivision planned to be developed in three separate phases. All lots would be served by a public water system and individual wastewater treatment systems. Primary access to the subdivision would be from Swiss Drive and Wettington Drive via US Highway 2 as well as Redwing Court via Smith Lake Road and Bighorn Drive. The application includes a proposal to dedicate a 4.56 net acre park area to Flathead County for use as a regional park.

STAFF REPORT

Hogle reviewed Staff Report FPP-14-01 for the Board.

**BOARD
QUESTIONS**

Calaway and Hogle discussed if the county accepted the park it would be maintained by the county, be accessed by public road, how cash-in-lieu would be determined, if perk tests had been done and the density of surrounding subdivision.

Stevens and Hogle discussed if a variance could be granted if the park did not have public access, if the county would take on new roads and if a variance would obligate the county to maintain the roads.

The board and Hogle discussed if it was possible for the county to accept the park or cash-in-lieu and subdivision regulations. They discussed in depth if the subdivision roads would be considered private or public roads, easements, the impact on owners of property in adjacent subdivisions, who would be responsible for maintenance on the roads and if there was a HOA for the users of the roads.

Schlegel and Hogle discussed if the traffic study took into account the existence of the park.

**APPLICANT
PRESENTATION**

Eric Mulcahy, Sands Surveying, represented the applicant. He introduced Kurt Hafferman from Billmayer Engineering, who did a lot of work on the water and drainage system. Hafferman would be available for questions as well. He said they had worked on the application for a while before they submitted the application because of the detail involved. One of their concerns was the septic systems on the site. They had gone above and

beyond with the application because they had submitted their information to DEQ for preapproval concerning non-degradation. They had done something similar with Whitefish Hills Village near Whitefish. They could provide sewer without degrading the water supply. They were aware that the county was looking for a five acre park to help with their regional parkland needs. They had met with the Parks Board on two occasions with a conceptual plan for the park. He had missed the part in the subdivision regulations about county parks being on county roads, not private roads. He commended Hogle on his taking a lot of information and distilling it down to the staff report. What they ultimately ended up with was Condition #19 concerning the park which was fine with them. They would like a third option to provide cash-in-lieu. To answer Calaway's question, cash-in-lieu had to be done not more than 6 months before the final plat of the subdivision. If the county no longer wanted the park, that was ok. The developer had reserved the right to use the existing roads for future subdivision. The storm water maintenance agreement stated the forty lots would be responsible for the road maintenance. The developer had access and would do maintenance. There had not been a cohesive association to provide maintenance for the road which was why the applicant had looked at starting fresh and having the 40 lots be responsible for the maintenance. The character of this phase would be similar to the previous subdivisions. They would be meeting the long term goals of the subdivision regulations as well. Both he and Hafferman were available for questions.

**BOARD
QUESTIONS**

Heim and Mulcahy briefly discussed if the 40 lots would be responsible for maintenance on the roads. It was easier to have the 40 lots maintain the roads instead of asking other property owners to come in to pay for the maintenance.

Hogle and Schlegel discussed how the roads were currently being maintained.

Calaway and Mulcahy discussed the feasibility of the applicant finding another comparable parcel for a park, the one designated water hookup for the park and if irrigation was available for the park.

Stevens and Mulcahy discussed if any of the conditions made the subdivision untenable. Mulcahy did not want to build out the road until the other phases were under construction. They also discussed if the applicant was required to have a water reserve

for fire suppression.

**AGENCY
COMMENTS**

Dean Sirucek, supervisor for Conservation District, said Ashley Creek was considered an impaired stream with the Water Quality Bureau. Ashley Creek was listed for nitrogen, phosphate and temperature. He explained a plan put together by DEQ which looked at the entire drainage and modeled for nitrogen and phosphate where the inputs were coming from. The primary input was septic tanks. He felt if Hafferman had talked with the other part of DEQ, he would have gotten a different answer concerning the effects of septic tanks on ground water. He explained the TMDL process in depth and the recommendations concerning septic systems. Somewhere along the line the county was going to have to figure out how they were going to fix this problem. He gave a brief history of his qualifications and explained how the soils on the hillside handled water currently compared to how it handled an irrigated area. He suggested ways the board could verify what he was saying. He was only giving background information for the board to consider.

Stevens asked if the Conservation Board had sent Sirucek to the meeting to present this information.

Sirucek said no, he was in attendance because the Conservation District wanted to fill their seat on the board so he had come to observe a meeting before saying he would serve. He said there had been one public meeting concerning this issue and only one member of the public was in attendance. The other attendees were from other offices. The document could have an impact when it was more widely recognized. It was the only stream on the valley bottom which was considered impaired. Septic systems were the primary problems which had been identified.

Schlegel and Sirucek discussed if DEQ might not allow septic systems in that area in the future.

**PUBLIC
COMMENT**

Hickey-AuClaire confirmed the board had received public comments and would now take a break to make sure they were properly reviewed.

The board took a ten minute break.

Orin Webber, 460 Orchard Ridge Road, was against the application.

Paul Blankenship, 127 Wettington Drive, was against the application.

Gordon Heindel, 115 Wettington Drive, was against the application.

Heather Cooper, 45 Redwing Court, was against the application.

Byron Whitehead, 111 Wettington Drive, was against the application.

Raul Brown, 126 Wettington Drive, was against the application.

Kurt Hafferman, Billmayer Engineering, worked with the applicant on the water system and wanted to give the board information on the issue.

Hickey-AuClaire said there would be time after public comment for him to speak.

Wesley Cooper, 45 Wettington Drive, was against the application.

Peggy Nau, 111 Wettington Drive, was against the application.

**APPLICANT
REBUTTAL**

Kurt Hafferman, Billmayer Engineering, 2191 3rd Avenue E. explained the water system and the past issues with it. They have added a third well and have kept the reservoir system at a higher level than previously. The ability to use as much water as you wanted was not possible in some areas and may be restricted with current legislation. He explained the restrictions and why they were in place. They would go forward with the water rights system in place and with the flow rates available now. There was adequate pressure, and they would continue to work on any other problems which arose from the water system.

Stevens and Hafferman discussed the definition of the non-degradation standards of the DEQ and if they were adequate.

Bodman and Hafferman discussed what the flow rate was on the third well.

Heim and Hafferman discussed if the homes had water meters on the houses.

Larsen and Hafferman discussed where the wells and water tank

were located, the full capacity which was approved by DEQ and the pressure issue.

Schlegel and Hafferman discussed what restrictions would be placed concerning irrigation with the additional houses.

Heim and Hafferman discussed the location of the main lines.

Wayne Turner, applicant, said there were eight inch lines to the fire hydrants and four inch everywhere else.

Heim and Hafferman discussed if the lines in the new subdivision would have eight inch water lines as well and where the new houses would hook in.

**STAFF
REBUTTAL**

Hogle said there was a plat map where the existing water lines were demarcated as well as the future lines. He stated public notice for subdivision was for 150 feet of the proposed subdivision boundaries and posted onsite.

Bodman and Hogle discussed if the office was aware of what an assessment referenced in a public comment said, when the application was received, letters of insufficiency, and when the application was determined to be sufficient.

Hafferman addressed the public comment concerning the water tank being held at capacity.

Hafferman and Bodman discussed if the two wells were sufficient or if they needed the third well.

Hickey-Au Claire and members of the public who had recently purchased a lot in the subdivision discussed what they were informed of when they purchased the lot. They knew of the water restrictions.

Wayne Turner, 3300 Hwy 2 West, addressed how often water samples were taken, where they were tested and how big the lines were for water. He said if anyone had any problem with pressure or smell, it was on their lines. Everything was up to snuff with the DEQ. He did not know what else he could do to alleviate the problems.

**MAIN MOTION
TO ADOPT**

Stevens made a motion seconded by Bodman to adopt staff report FPP-14-01 as findings-of-fact.

F.O.F.
(FPP-14-01)

BOARD
DISCUSSION

The board discussed at length the problems with the wells, the number of new lots, the water needed for the fire system and how much water the average household used per day.

Stevens's concerns with the subdivision were health and safety. With sanitation, DEQ would stop any problems, but he was concerned with the water issue. He did not know how to address irrigation on a one acre tract. He did not feel qualified to second guess DEQ.

Larsen explained what was needed for houses, how tanks worked with the water system and what DEQ required. He referred to a comment from Emily Gillespie and said there were different qualifications for irrigation for square foot and domestic demand.

Hickey-AuClaire said it was hard to add onto a situation where there were already existing road use agreements, and well users. It was easier to start from scratch with restrictions as opposed to imposing them at a later date.

The board discussed the water issues including flat rate water, the flow rate, overwatering with a flat rate for water, existing water problems, the reasons why people live out in the area and the problems with phasing. They wanted more information as to whether or not the third well was alleviating the water problems.

The board asked the public if they had noticed a difference in the water system. They also asked if anyone had taken in a water sample and what the results were.

The board discussed if the Parks Department was able to take on the park, if there was enough water to supply the park and if a condition concerning cash-in-lieu was appropriate instead of the option of a park. They also debated what would happen with the park area if there was not a park. They continued to discuss the water system including if DEQ reviewed the existing usage on the system.

Hafferman said they had flow meters on the wells and DEQ had seen the logs.

Grieve clarified procedure concerning findings of fact supporting

the motion to either approve or deny the application.

Stevens clarified with Grieve what would need to be done with the findings of fact.

Hickey-AuClaire clarified procedure.

Hogle and the board discussed if findings concerning the parkland would need to be struck.

The board decided to discuss the findings of fact one by one.

**SECONDARY
MOTION TO
(Amend F.O.F. #3)**

Bodman made a motion seconded by Calaway to amend finding of fact #3 to read:

3. The proposal for domestic water supply and wastewater management for the 40 lots within the subdivision is a connection of all lots to the public water services of the Wettington Water District Inc. Community Public Water System (WWD), which will necessitate an extension of existing water mainlines presently crossing the subject property and servicing properties. The proposed connection to the District's public water services is feasible because the developer owns the system and the Montana Department of Environmental Quality has indicated the WWD currently serves 56 equivalent dwelling units (EDU's) dispersed among neighboring subdivisions and other properties and that there is capacity for 48-50 additional lots to be connected to the system, *however significant public testimony indicated there are issues with water quality and capacity.*

**BOARD
DISCUSSION**

None.

**ROLL CALL
VOTE
(Amend F.O.F. #3)**

On a roll call vote the motion passed 7-1 with Stevens dissenting

**BOARD
DISCUSSION**

The board continued to read and discuss the findings one by one.

Grieve pointed out a lot of discussion was centered on the second half of finding #4.

Hogle, the board and Hafferman discussed if the finding led to

the conclusion there was sufficient quality and quantity and water rights.

**SECONDARY
MOTION**
(Amend F.O.F. #4)

Shellerud made a motion seconded by Larsen to amend finding of fact #4 to read:

4. The developer proposes to use offsite wells and a water storage tank serving the existing Wettington Water District as the water source for the public water system which is proposed to be extended to serve the lots within subdivision, and comment from the Montana Department of Natural Resources and Conservation indicates an appropriate water right would be required in order to use groundwater for that purpose. If the developer demonstrates legal use of well water serving the public water supply there would be no adverse impact ~~related to water quantity and availability~~ because use of the well water for public water supply would be legally established.

**BOARD
DISCUSSION**

None.

**ROLL CALL
VOTE**
(Amend F.O.F. #4)

On a roll call vote the motion failed 2-6 with Heim, Stevens, Calaway, Schlegel, Larsen and Hickey-AuClaire dissenting.

**BOARD
DISCUSSION**

The board continued to discuss finding of fact #4.

**SECONDARY
MOTION**
(Amend F.O.F. #4)

Bodman made a motion seconded by Shellerud to amend finding of fact #4 to read:

4. The developer proposes to use offsite wells and a water storage tank serving the existing Wettington Water District as the water source for the public water system which is proposed to be extended to serve the lots within subdivision, and comment from the Montana Department of Natural Resources and Conservation indicates an appropriate water right would be required in order to use groundwater for that purpose. If the developer demonstrates legal use of well water serving the public water supply there would be no adverse impact related to ~~water quantity and~~ availability because use of the well water for public water supply would be legally established.

**BOARD
DISCUSSION**

None.

**ROLL CALL
VOTE
(Amend F.O.F. #4)**

On a roll call vote the motion failed due to a tie vote 4-4 with Heim, Calaway, Schlegel and Larsen dissenting.

**BOARD
DISCUSSION**

The board continued to discuss the findings of fact one by one.

Hogle offered potential language for condition #19 concerning the parkland for when the time came to address the conditions.

The board continued to discuss the findings of fact one by one.

Hogle offered alternate language for finding of fact #15.

Hogle and the board continued to discuss finding of fact #15.

The board and Hogle discussed findings of fact #16.

Grieve offered alternate wording for finding of fact #16.

**SECONDARY
MOTION TO
(Amend F.O.F.
#16)**

Calaway made a motion seconded by Stevens to amend finding of fact #16 to read:

16. The proposal for road maintenance as outlined in the draft 'Wettington Acres Phase 2 Road and Stormwater Drainage Maintenance Agreement' does ~~not~~ comply with applicable requirements of Section 4.7.15(d) FCSR which states "Subsequent subdivisions using an existing subdivision road system as a primary access shall be required to pay a pro-rata share of road maintenance for the shared portion of the existing subdivision roads..." because under the draft document future lot owners of Wettington Acres Phase 2 Lots 1-40 would use the off-site access roads ~~but not~~ **and would** be responsible for contributing to the maintenance of them.

**BOARD
DISCUSSION**

None.

**ASK THE
QUESTION**

Larsen asked the question.

**ROLL CALL TO
(Amend F.O.F.
#16)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

The board continued to review the findings of fact one by one.

**ASK THE
QUESTION**

Larsen asked the question.

**ROLL CALL TO
ADOPT F.O.F.
(FPP-14-01)**

On a roll call vote the motion passed 7-1 with Stevens dissenting.

**BOARD
DISCUSSION**

None.

**MAIN MOTION
TO
RECOMMEND
APPROVAL OF
CONDITIONS
(FPP-14-01)**

Stevens made a motion seconded by Larsen to adopt Staff Report FPP-14-01 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

The board and Hogle discussed the wording for condition #19.

**SECONDARY
MOTION TO
(Amend
CONDITION #19)**

Larsen made a motion seconded by Heim to amend condition #19 to read:

19. *Either cash-in-lieu or a A* total of 2.11 gross acres (minimum) of land shall be dedicated as parkland and maintained by a Homeowner's Association in accordance with the provisions of Section 4.7.24(d)(ii) FCSR, and shall be designated on the face of the final plat. Should the final plat involve dedication of the proposed 5.24 gross acres it would be recognized that a surplus of 3.13 gross acres has been voluntarily dedicated by the subdivider, and pursuant to Section 4.7.24(c) the surplus dedicated land may be attributed toward applicable parkland dedication requirements of anticipated subsequent subdivisions on the adjacent property currently owned by the subdivider. Note that no additional valuation such as irrigation rights or a public water utility connection are being requested or required by Flathead County, and no additional cash-equivalent valuation beyond actual land dedicated per requirements of Section 4.7.24(d)(ii) FCSR may be attributed toward applicable parkland dedication requirements of anticipated subsequent subdivisions.[Section 4.7.24 FCSR]

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
(Amend
CONDITION #19)**

On a roll call vote the motion passed 6-2 with Shellerud and Heim dissenting.

**BOARD
DISCUSSION**

The board briefly discussed what could be conditioned.

Hogle and the board discussed conditions which concerned maintenance.

Grieve clarified the motion on the table.

**ROLL CALL TO
RECOMMEND
APPROVAL OF
(FPP-14-01)**

On a roll call vote the motion failed 3-5 with Stevens, Bodman, Schlegel, Calaway and Shellerud dissenting.

**BOARD
DISCUSSION**

Hickey-AuClaire and Grieve reviewed process.

The board discussed the next step in the situation and findings of facts.

**MAIN MOTION
TO DENY
(FPP-14-01)**

Bodman made a motion seconded by Calaway to adopt Staff Report FPP-14-01 and recommend denial to the Board of County Commissioners.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
RECOMMEND
DENIAL OF
(FPP-14-01)**

On a roll call vote the motion failed due to tie 4-4 with Hickey-AuClaire, Larsen, Heim and Stevens dissenting.

**BOARD
DISCUSSION**

The board and Grieve discussed their options from this point.

Grieve summarized what will be forwarded to the commissioners' office.

Hickey-AuClaire and Hogle clarified process for the application from this point.

OLD BUSINESS
11:46 pm

Grieve said an administrative issue was scheduling meetings. He reviewed what workshops had been held and nothing had been scheduled for the Whitefish Transition. He asked for feedback on what the board wanted to meet on and when they wanted to meet.

Bodman suggested resolving either the Lake and Lakeshore Regulations or the transition. Going back and forth on the two issues were challenging.

Grieve said Lakeshore regulations were not under a timeline. The planning and zoning situation were under a timeline and he reviewed what workshops had been held. He wanted to continue forward and asked how they wanted to proceed.

Grieve and the board discussed the options at length and what had been done to solicit public comment.

**MAIN MOTION
TO PLACE
RECOMMENDA
TION FOR
WHITEFISH
ZONING ON
DECEMBER
AGENDA**

Larsen made a motion seconded by Hickey-AuClaire to place the item on the December 10, 2014 agenda.

**BOARD
DISCUSSION**

Grieve clarified with the board there would be no public comment for the Lakeshore and zoning transition. He reviewed the steps he would take to assure the proper procedure had been followed.

NEW BUSINESS

None.

ADJOURNMENT

The meeting was adjourned at approximately 11:54 pm. on a motion by Calaway. The next meeting will be held at 6:00 p.m. on December 10, 2014.

Marie Hickey-AuClaire, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 12 / 10 / 14*