

MONDAY, JUNE 9, 2003

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

MONTHLY MEETING W/JAY SCOTT, FAIRGROUNDS

Present at the June 9, 2003 9:00 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, Fair Director Jay Scott, and Clerk Eggum.

General discussion was held relative to spring fair/carnival; road; bid proposals; capital improvement resolution; fire suppression bids.

Commissioner Hall stepped out of the room.

Commissioner Gipe made a **motion** to authorize the publication of the Call for Bids and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** - Watne and Gipe. Motion carried by quorum.

CALL FOR BIDS

Notice is hereby given that the Board of County Commissioners of Flathead County, Montana, will receive bids for the fire sprinkler system at the steel building that the County is erecting at the Flathead County Fairgrounds at the corner of West Idaho Street and Meridian Road, Kalispell, Montana.

The specifications and Instructions to Bidders are available from Peters & Associates Architect, 7993-A Montana Highway 35, Bigfork, MT 59911, mailing address – 236 Redgate Drive, Bigfork, MT 59911.

Time is of the essence – Flathead County wishes to complete the sprinkler system as soon as possible. Anticipated completion date will be considered in awarding the bid as will liquidated damages for failure to complete work on time. The successful bidder or bidders will secure any necessary permits.

Each bidder must deposit with his bid, a bid security in the amount of ten percent (10%) of the bid to secure the bidder's express covenant that if the bidder is awarded the contract, the bidder will, within ten (10) days, enter into a formal contract for the completion of the project. Bid security shall be payable to Flathead County and shall be in the form of lawful money of the United States, a cashier's check, certified check, bank money order, or bank draft issued by a Montana bank, or bid bond executed by a surety corporation authorized to do business in Montana.

A Performance Bond and Labor and Materials Payment Bond each in the amount of One Hundred percent (100%) of the contract sum will be required of the successful bidder, to secure the contractor's covenant to faithfully perform all of the conditions of the contract in accordance with the law and that contract. No bidder may withdraw a bid after the actual date of the opening thereof.

The successful bidder must contract to pay prevailing wage rates, set by the Montana Department of Labor.

All sealed bids, plainly marked "**Flathead County – Sprinkler System - New Steel Building at the Fairgrounds**" must be in the hands of the County Clerk and Recorder, 800 South Main, Kalispell, Montana 59901, at or before **5:00 o'clock p.m. on June 23, 2003**. Bids will be opened and read at **8:45 o'clock a.m., on June 24, 2003**, in the Commissioners' Office at the Courthouse, West Annex, 800 South Main, Kalispell, Montana.

Flathead County reserves the right to accept or reject any bid and to waive any irregularities which are deemed to be in the best interest of the County.

The award of bid will be made solely by the issuance of a letter of award to the successful bidder by the Office of the Flathead County Clerk and Recorder.

Dated this 9th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

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

By: /s/ Vickie M. Eggum
Vickie M. Eggum, Deputy

Publish: June 12 and June 19, 2003.

Commissioner Hall was seated.

MEETING WITH JAY SCOTT/FAIRGROUNDS AND ROBIN BOON/WESTERN STATES INSURANCE RE: INSURANCE

Present at the June 9, 2003 9:15 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, Fair Director Jay Scott, Deputy County Attorney Jonathan Smith, Robin Boon, and Clerk Eggum.

Discussion was held relative to liability insurance requirements for booths rented during the week of the fair. Boon clarified that those groups would not be allowed to come onto the county's policy. Given the pricing of what is going on in the insurance market right now, it is going to drive away some of the small concessionaires from attending the fair. Boon noted that it has always been the policy that any outside entity coming onto county property is required to carry insurance. Boon suggested a compromise that during the time of the fair the insurance requirement be waived. Jay noted that most of the groups like that are

volunteers and their money go to those organizations so financial resources are limited. The money for insurance would have to come out of their pocket. Boon cautioned that this not extend beyond the simple vendors. Boon noted that this would be establishing a deviation from policy which could cause problems in the future. Boon stated that the only way to allow them to have additional insurance with MACo would be to enter into a contract with them where the county agrees to take on the liability for the event. Scott noted that this would be only applicable to non-profit groups. Smith suggested that during fair week the non-profit groups should be excluded from the insurance requirement policy and the county assume the liability for that one week. Boon noted that her only concern with waiving it for the week of the fair is if the county is absorbing the liability then it ought to be making sure it can control it more. Boon noted that in all the years she has been working with the fair, there has never been a claim from a food booth or a non-profit organization.

MEETING WITH ROBIN BOON/WESTERN STATES INSURANCE RE: TOP SAFETY ISSUES

Present at the June 9, 2003 9:30 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, Robin Boon, Clerk and Recorder Paula Robinson, Computer Services Director Norman Calvert, Human Resource Officer Raeann Campbell, OES Director Alan Marble, Linda Adam, Monica Eisenzimer, and Clerk Eggum.

Campbell distributed and Boon discussed the safety committee flow chart and the safety priorities for the county. General discussion was held.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: O'CONNELL ZONE CHANGE/LOWER SIDE ZONING DISTRICT

Present at the June 9, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, and Clerk Eggum.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Commissioner Gipe **seconded** the motion. **Aye** – Watne, Gipe and Hall. 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 Randy and Sandy O'Connell to change the zoning designation in a portion of the Lower Side Zoning District from AG-80 (Agricultural) to SAG-10 (Suburban Agricultural).

The boundaries of the area proposed to be amended from AG-80 to SAG-10 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from those designed to protect and preserve agricultural land for the performance of a wide range of agricultural functions and to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to residential development, to regulations 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. The AG-80 classification has a minimum lot size of 80 acres; a change to SAG-10 would result in a minimum lot size of 10 acres.

The regulations defining the AG-80 and SAG-10 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 **26th day of June, 2003, at 9:00 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 Lower Side Zoning District.

DATED this 9th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum
Vickie M. Eggum, Deputy

Publish on June 12, 2003 and June 19, 2003

EXHIBIT A
Randy and Sandy O'Connell
Zone Change/Lowerside Zoning District
Legal Description

Legal Description of Property:

Parcel B on Certificate of Survey No. 5621 and

Parcel 2: East One-Half of the Northeast Quarter (E½NE¼) and Northwest Quarter of Northeast Quarter (NW¼NE¼) Section Thirty-three (33), Township Twenty-eight (28) North, Range Twenty-one (21) West, P.M.M., Flathead County, Montana. EXCEPTING THEREFROM that portion deeded to Flathead County for roadways in deeds recorded May 2, 1911, in Book 108, Page 203, as Doc. No. 1616, recorded March 8, 1962, in Book 445, Page 707, as Doc. No. 1861, and recorded March 8, 1962, in Book 445, Page 708, as Doc. No. 1862, records of Flathead County, Montana.

ALSO EXCEPTING THEREFROM: A tract of land situated, lying and being in the Northeast Quarter of the Northeast Quarter of Section 33, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana, and more particularly described as follows to-wit: Commencing at the Northeast corner of the Northeast Quarter of Section 33, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana; thence South 89°40'19" West, and along the North boundary of said NE¼, a distance of 30.00 feet to a found iron pin on the Westerly R/W of a 60 foot county road known as Lower Valley Road and the True Point of Beginning of the tract of land herein described; thence South 00°01'49" West, and along said R/W, 904.28 feet to a set iron thence leaving said R/W, South 89°40'19" West, 963.49 feet to a set iron pin; thence North 00°01'49" East, 904.28 feet to a set iron pin on the North boundary of said NE¼; thence North 89°40'19" East, and along said boundary, a distance of 963.49 feet to the Point of Beginning.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROYBAL ZONE CHANGE/LOWER SIDE ZONING DISTRICT

Present at the June 9, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, and Clerk Eggum.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Commissioner Gipe **seconded** the motion. **Aye** – Watne, Gipe and Hall. 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 Paul Roybal & Katherine McBroom to change the zoning designation in a portion of the Lower Side Zoning District from SAG-5 (Suburban Agricultural) to R-1 (Suburban Residential).

The boundaries of the area proposed to be amended from SAG-5 to R-1 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from a district intended to protect and preserve smaller agricultural functions, to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development, to a residential district intended to provide estate type development, in rural areas away from concentrated urban development or in areas where it is desirable to permit only low density development. The SAG-5 classification has a minimum lot size of 5 acres; a change to R-1 would result in a minimum lot size of 1 acre.

The regulations defining the SAG-5 and R-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 **25th day of June, 2003, at 9:15 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 Lower Side Zoning District.

DATED this 9th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Vickie M. Eggum
Vickie M. Eggum, Deputy

Publish on June 12, 2003 and June 19, 2003.

EXHIBIT A
Paul Roybal & Katherine McBroom Washington Trust
Zone Change/Lower West Side Zoning District
Legal Description

The property is described as Parcels A and B on Certificate of Survey 14843 and Parcel B on Certificate of Survey 7797, in Section 23, Township 28 North, Range 22 West, P.M.M., Flathead County, Montana.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: BOESE, ET AL., ZONE CHANGE/BIGFORK AREA ZONING DISTRICT

Present at the June 9, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, and Clerk Eggum.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Commissioner Gipe **seconded** the motion. **Aye** – Watne, Gipe and Hall. 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 Robert & Rita Boese, Del Polish, and Craig & Shellie Weitz Hovda to change the zoning designation in a portion of the Bigfork Area Zoning District from AG-40 (Agricultural) to SAG-10 (Suburban Residential).

The boundaries of the area proposed to be amended from AG-40 to SAG-10 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from a district intended to protect and preserve agricultural land for the performance of a wide range of agricultural functions and to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to residential development, to a district intended 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. The AG-40 classification has a minimum lot size of 40 acres; a change to SAG-10 would result in a minimum lot size of 10 acres.

The regulations defining the AG-40 and SAG-10 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 **1st day of July, 2003, at 9:30 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 Bigfork Area Zoning District.

DATED this 9th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum
Vickie M. Eggum, Deputy

Publish on June 12, 2003 and June 19, 2003.

EXHIBIT A
Boese, Polish & Hovda
Zone Change/Bigfork Zoning District
Legal Description

Legal Description of Property:

Tract 1: NE1/4 of the NW1/4 of Section 21, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana and Tract 2 of Certificate of Survey No. 13365 in Section 21, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana.

CONSIDERATION OF RELEASE OF COLLATERAL: CABIN CREEK LANDING

Present at the June 9, 2003 10:00 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, and Clerk Eggum.

Chairman Watne reviewed a letter from Shane D. Jackola advising that the items listed on Exhibit B of the Subdivision Improvement Agreement have been completed.

Commissioner Gipe made a **motion** to authorize the release of collateral. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

MEETING W/JOE RUSSELL RE: PERSONNEL QUESTIONS

Present at the June 9, 2003 10:00 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, Assistant Avery, and Clerk Eggum.

This meeting did not take place.

FINAL PLAT: FOLEY SUBDIVISION

Present at the June 9, 2003 10:30 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, Planner Tim Beck, Murphy Foley, and Clerk Eggum.

Beck reviewed the Staff Report regarding the application filed by Murphy Foley for Foley Subdivision which creates a one lot residential subdivision with a remainder. The subdivision is located adjacent to Belton Stage Road and contains approximately 8.4 acres. Preliminary plat approval was granted on January 7, 2003 subject to 9 conditions. Beck indicated that all conditions had been met or otherwise addressed. Staff recommends approval of the final plat.

Commissioner Gipe made a **motion** to approve Final Plat for Foley Subdivision. Commissioner Hall **seconded** the motion. **Aye** – Watne, Gipe and Hall. Motion carried unanimously.

CONSIDERATION OF MILL LEVY/PORT AUTHORITY

Present at the June 9, 2003 10:45 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, Assistant Avery, and Clerk Eggum.

Chairman Watne reviewed a letter from Elizabeth C. Harris of the Flathead County Economic Development Authority requesting a tax levy of 2 mills for the fiscal year beginning July 1, 2003. The funds provided by the levy will be used for the further economic development of Flathead County.

Commissioner Gipe made a **motion** to approve the tax levy request for the Flathead County Economic Development Authority. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF INCREASING MAXIMUM LIFE INSURANCE/HUMAN RESOURCE OFFICE

Present at the June 9, 2003 10:45 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, Lorraine Reid, Human Resource Officer Raeann Campbell, and Clerk Eggum.

Commissioner Gipe made a **motion** to approve raising the maximum life insurance benefits available to purchase to \$100,000.00 for county employees. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

MEETING W/CHARLIE JOHNSON, ROAD DEPARTMENT

Present at the June 9, 2003 11:00 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, Road Superintendent Charlie Johnson, Don R. Garner, Brian Wray, Rose Mary Gluth, Gabriel Gluth, Adam Gluth, John S. Elledge, Erica Wirtala, and Clerk Eggum.

Garner advised that he had presented Gary Hall with a petition with over 130 signatures from people who drive **McMannamy Draw** regularly. The petition was requesting the Road Department of Flathead County for additional asphalt to control the safety, health and environmental problems associated with high dust levels due to road conditions and population density. Garner noted that grading the road was costly as well and the dust problems were really horrible. Garner recalled when the county purchased the paving equipment. It was to get the county roads paved. Garner had noticed counters on the road and was hoping that was an indication of anticipated work to the road. Garner stated that there were not very many millionaires that live on that road but the people that live there deserve some better help from the county with the road. Garner suggested that a mile or so be paved each year.

Wray advised that he has lived on McMannamy Draw for 30 years. There were 14 families when he moved there and now there are approximately 95 families living on the road. He noted that he has in his driveway and parking area an inch and one-half to two inches of fines from the county road that leached off of the road. He stated the road was designed as a logging road and it has never been rebuilt. He referred to holes as big as dishpans and deeper in the spring. He noted the road is not even on right-of-way. Wray speculated that there are more cars driving on McMannamy Draw than on 5th Avenue West. Wray has paid \$250.00 for the past 10 to 12 years to have the road oiled and the county has not done a thing to the road. He no longer can do the oiling because he has been threatened for causing damage to cars from the oiling and he no longer can afford to pay for such service. Wray noted he has asbestosis and the dust aggravates the problem in addition to the damage it does to his car. Wray commended Johnson for the work he has done on the road but noted it was recently bladed and now there are rocks in the corner sticking their heads right up out of the road bed. They have been there for 20 years. Wray questioned why the county could not remove those rocks from the road and replace them with some road bed. Wray complained that the county has paved roads with less traffic than McMannamy. Johnson stated that he is not opposed to paving any road but he has to figure out how to pay for it.

Johnson advised that he is surveying roads as fast as they can get them surveyed. Johnson expressed sympathy for the people on McMannamy and noted that the Commissioners are going to have to make some hard decisions as to which roads to work on and where the finances are going to come from. Wray noted that McMannamy Draw was 30' off of right-of-way in front of his property. Johnson acknowledged that almost every road he surveys is off right-of-way some place and the correction is expensive. Johnson stated that he surveys everything before he starts. He suggested that instead of Wray giving up 30', he may want to give up 60'. Wray stated that he gave up property for the right-of-way but the property owners across the road never reciprocated. Johnson advised of other roads he has surveyed and the types of issues he deals with on a daily basis: KM Ranch Road has some right-of-way right on the edge and they need to decide whether they are going to include the cut slopes and fill slopes in the right-of-way. Johnson spent two and one-half years getting right-of-way on Haskill Basin just in a one-half mile section. Since the first of the year, Johnson has surveyed **Lupfer, Haskill Basin, Garland** and **Snowline** and there isn't one of those roads that are completely on right-of-way. Chairman Watne noted that McMannamy Draw would be a total rebuild. Wray countered that the county would not have to buy any right-of-way as it is already there. He suggested that the road be moved over. Johnson responded that there are places in the county where it is easier to negotiate with the landowner than it is to move the road.

Chairman Watne reviewed the traffic counts for McMannamy Draw. 2002 - 2061 a week; 344 a day.

Johnson advised that traffic counts for all the roads in the county are taken periodically. It is not an indication that the road is going to get paved but it is one of the factors they use to make a determination. McMannamy is in the top 25 roads in this county that needs paving. Wray noted that they are adding a house every 30 days and less. Chairman Watne noted that growth is happening all over the valley.

Wirtala advised that she lives further up on McMannamy Draw and there are a significant number of families living up there. That whole west valley area is going at a huge boom right now. The city council just annexed a big property at West Reserve and Stillwater for 127 homes. Tomorrow night 350 homes at Three Mile Drive and Stillwater will be proposed. An immense expansion is coming to the west. The state property will perhaps have an elementary school and a high school at that location plus the business park. That roadway system between that and West Reserve is just really going to explode and it would be better to be proactive rather than reactive. She questioned whether this would generate an RSID. Commissioner Hall responded that an RSID is an opportunity for those people to share in the costs of getting that road done. There are hundreds of miles of road in the valley that need paving. The county has to have some partnerships in order to get some of these things done. Discussions have been held about a gas tax. It only generates about \$500,000.00 a year which isn't a lot when it comes to paving roads, but if the neighborhood put in an RSID the county could designate some of those funds to help with road building.

Wirtala questioned whether Stoltze and O & H Leasing and state lands at the end of draw could provide some assistance. Johnson responded that logging trucks pay about \$5,000.00 a year in road use tax as it is. The problem with the road use tax on trucks, it goes to the federal government. It gets kicked back to the state. One of the problems that we are running into is the state it is not trickling back enough money to the counties. Gas tax runs right at \$551,000.00 a year. That is half a million dollars. Wray objected to paying more in gas tax. Johnson stated that if the county had the money these projects would be done.

Wray questioned why **Lodgepole Road** was paved when there are four families that live on that road. Commissioner Gipe responded that the number of people living on the road is irrelevant. The traffic counts on that road were probably four times of what is going down McMannamy Draw. Wray countered if nobody lives on the road the dust is not an issue. Commissioner Gipe reiterated that they were talking about usage on a road. That was the reason Lodgepole Road was paved. Garner stated that he believes they have the usage too. It is suppose to be a gravel road but it isn't. It is dirt and rock. Johnson replied that once you get past 200 cars on a gravel road they are unmaintainable and that is where McMannamy Draw is. The county cannot produce gravel fast enough. Garner requested that some surveying be done on McMannamy Draw. He stated that in the past four years, he has been told a couple of times that McMannamy is right up near the top but instead of moving up on the list it is moving down. Johnson advised that each year they set a priority list based on traffic count and maintenance. Unfortunately, all it takes is one subdivision on a gravel road to change the traffic counts and priorities. Pioneer and Jellison is a prime example of that. Pioneer used to be at the bottom of the list. In two years that road has been elevated to the number one road in the county thus knocking off other roads. Garner requested that some work be done on McMannamy Draw before the priorities change again. Johnson agreed he would like that too but the situation is how to fund all the demands. He and the Commissioners have hard decisions to make. Garner again requested that a little each year be done until the entire road is paved. Johnson noted that two years ago they did about ¾ of mile up to **Dern Draw** but it needs to go farther. Wray agreed it needs to go another mile and one-half further.

Wray requested that the Sheriff's Department send a patrolman to monitor the road periodically to keep people from driving over the speed limit. Commissioner Hall agreed to talk to the sheriff.

Johnson confirmed that per lineal foot costs vary widely from road to road depending on what relocation has to be done, subgrade, etc. but basically right at \$100,000.00 a mile. Johnson explained to do an RSID, a district as to be drawn and you encompass into that district whatever properties you want to encompass.

Wray questioned why **West Valley Drive** was paved as there are two or three homes on the road and it dead ends at Grosswiler Dairy. Johnson reiterated that what is on the list far exceeds the amount of money the county has to do these projects. Garner questioned whether other citizens have gone to the lengths that they have such as preparing petitions and the like. The Commissioners responded that they have received several. Chairman Watne stated that everybody wants pavement right now and the Commissioners agree it is needed but funding is the problem they are faced with.

Johnson stated that most of the county roads were built in an inadequate state to begin with. Then they got paved on top of that. So now we are overlaying a road we know darn well should be rebuilt. So you are trying to add structural strength to an already paved, faulty, flawed road by repaving it because we don't have the money to go out and rebuild the existing asphalt road. **Helena Flats** is a prime example. They dug black dirt up out of the ditches and paved over the top of it. We are paying for 50 years worth of sins. The other portion of this list is overlays. Do we allow the roads that we have that are paved to deteriorate further to the point or do we go back and overlay? We have to allocate part of our funds for overlays and part of our funds for construction.

Wray questioned the viability of using ground rubber in the asphalt. Johnson responded that it is feasible in the warmer climates. It is a pliable product and asphalt can work with it year round. They use it extensively in California, Arizona and the warmer states. It even takes the tire noise out. The problem they have found in the northern states is that the asphalt gets brittle in the winter time and the rubber doesn't and they end up with a lot of what they call alligatoring.

Chairman Watne requested that the stop sign coming down the hill where **Daley Lane** takes off of **North Foy's Lake Drive** be switched as coming down North Foy's Lake Drive is too steep to stop in the winter. Johnson stated that Daley is the same thing. Chairman Watne stated that cars on Daley are the only ones that can stop.

Johnson then reviewed the list of roads noting that what was heard this morning was part of the frustration from the citizens of Flathead County. We have **Broeder Loop, Downtown Bigfork and Somers Hoffman Draw** had a commitment made for work. Right now by the time all the utilities and some of the work is done, Hoffman Draw is not going to get paved this year. Hoffman Draw, McMannamy Draw and all these roads basically are all within the same traffic count give or take 20 or 30 cars.

Chairman Watne agreed that Hoffman Draw could not be completed until all the right-of-way issues were resolved. Johnson noted that these are the types of problems they are running into. He expressed concern for the amount of surveying he is undertaking and the ability to pay for the same. Commissioner Gipe agreed that the county needs to hire a full time surveyor. Chairman Watne expressed concern for the contract the county currently has with a surveyor. Commissioner Gipe and Johnson agreed that there would be no conflict. The contract only binds the county if they need to go outside for surveying projects. Johnson reiterated his concern for funding for surveying. Johnson noted the more he surveys, the more right-of-way problems he discovers. He noted he was uncomfortable building and paving roads. The cure for this stuff is move everything back where it belongs. These were old logging roads. Commissioner Gipe noted that to get back on right-of-way with McMannamy you are going to start taking the edge of the hills and the points. It is going to be a mess. Johnson agreed that was why it was built the way it was. Commissioner Hall suggested that in issues such as this leave the road where it is and go to the property owners to move the right-of-way. Johnson acknowledged that is the first avenue he takes. He noted Lupfer was off 150 feet. He went to Plum Creek and abandoned the right-of-way in exchange for leaving the road where it was. Johnson noted his number one goal is the fastest and easiest way for the county. He noted he attempted that approach on Haskill Basin and two and one-half years later, they have all the pieces but one and with that piece he is going to exercise the prescriptive use and see how it comes out.

Johnson noted he hates to tell people that. Johnson stated his first priority when a surveyor is hired will be to have roads surveyed where the property is owned by the same owner on both sides. It makes the acquisition of the right-of-way a much easier and smoother transition rather than after the property is subdivided and there are several owners.

Johnson referred to the list again and asked where to start to pare down. In order to keep the Road Department at the level it is at right now, we are going to need an influx of about \$600,000.00 and that just gets us basically through our normal year. If we are going to increase our level of work at all we need \$1.3 million. The problem is we are not keeping up.

Johnson stated he needed some guidance going through the list. A group of people came in from Lakeview Park Estates and wanted to build that road. Basically doing so would benefit the guy that is doing the subdivision in there. The Commissioners agreed to scratch that project from the list.

Johnson went on to Lupfer Road which he stated has to be done. The county is obligated to fix a crossing when the railroad installs upgrades. Johnson has moved and straightened the road and technically straightened out the right-of-way. They pave 200 or 300 feet on each side of the crossing. Another 300 or 400 feet of paving would get to the end of Lupfer. Commissioner Hall noted only a few people live on Lupfer. Chairman Watne explained that they not only look at traffic counts but at costs for

maintenance. Johnson confirmed that he tells people, traffic counts are raw data. It gets our attention then we start looking at the maintenance costs that are involved. Sometimes it is just better to pave the road because it is outside our scope of work. Johnson noted they would be paving on **Garland** anyway. Johnson also noted it would take a day to pave Lupfer whether they do the whole thing or not by the time they move up there and move out. Chairman Watne confirmed that the added cost would be \$10 to \$15,000.00. He was unable provide a breakdown comparison of maintenance costs per mile but felt confident it was the right thing to do. Commissioner Hall expressed concern for more populated roads needing paving. Johnson agreed it was all the roads. Johnson confirmed that he is to tell people to look to an RSID as a solution to their road problems. He expressed frustration with the process. Commissioner Hall agreed and stated they would have to meet with the parties involved to resolve the questions associated with the RSID. Commissioner Hall reiterated the need to utilize the RSID process to complete work on roads. Chairman Watne questioned why the practice of partnering with county residents to complete paving was halted. Commissioner Gipe responded that the job just got too big for the Road Department to handle as far as time and staff. He added that it saved the county as far as asphalt and maintenance immediately. Johnson repeated statements made by residents when work was done for people who partnered with the county for road work. He cautioned the Commissioners that whatever they decide they must be consistent.

Johnson stated that he can make the cuts but wanted the Commissioners to be aware of them.

Commissioner Gipe stated that Solid Waste would help with the expenses of paving Broeder Loop as that was reason for all the traffic on that road. He advised it was a priority. Johnson noted that there were no residents that lived close by.

Commissioner Watne stated he wanted **Auction Road** done in his area. Commissioner Gipe agreed that road should be done.

Commissioner Hall questioned what response was going to be given to Brist. Commissioner Watne advised that another meeting was being scheduled with Brist to discuss the options. Johnson advised that he would go along with whatever was decided. Chairman Watne stated he felt an obligation but didn't know how the county could afford to do the project.

Johnson advised that a commitment was made to do **West Valley Drive** when a resident gave property to build up a slump. Commissioner Hall noted that here was another road with only a few residences. Chairman Watne stated that West Valley was a highly utilized road and when the slump occurred it was important to get it fixed.

Commissioner Hall questioned whether a resolution had been reached relative to partnering for **Jellison/Pioneer**. Johnson responded that a meeting has been scheduled with the entire group to discuss how to get it done. Commissioner Hall requested that be put on the list in case an agreement is reached. Commissioner Gipe advised that most of the calls he is getting are from that area. Johnson agreed the road needed to be paved. His proposal was to obtain the material from all the businesses on the road at cost with each one furnishing two trucks each and the county would furnish all the trucks, people on the ground and equally split the equipment and the county will pave it when it is built. Commissioner Hall requested more participation from the businesses. Commissioner Gipe agreed the road needed to be paved and the county would have to accept whatever they could get. Johnson stated if the Commissioners ordered, he could require the businesses to pave the road but requested that they all agree as the project would be scrutinized whatever is done. Chairman Watne suggested that a cost figure be put on the project and then split equally from that avenue. Johnson requested participation in the meeting of a representative from the Commissioner's Office.

Johnson questioned whether the county would have a different policy from what is being required of the residential areas reiterating the need for consistency. Commissioner Hall stated that every road is a different situation and it is hard to generalize. Johnson responded that there is no one silver bullet to solve the problems throughout the entire county. He noted that if the county would have required paving in front of each piece of property several years ago, all of **Farm Road** would be paved because that has been subdivided and subdivided. But nobody has paved anything and now the county is being inundated with phone calls saying that they live on the dustiest road in the county. According to traffic counts, Farm Road is moving up the list and pretty soon these people are going to be sitting here. Johnson noted the need to sit down with the Planning Department and seriously discuss how to solve these problems. Johnson stated that he requests paving on the subdivisions and the Planning Department says they cannot require that. Chairman Watne agreed that the regulations need to be changed to grow with the times. Commissioner Hall advised that Jeff Larson had agreed to go to the Planning Board and discuss their concerns relative to roads. Johnson noted that the soonest he was able to get an appointment with the Planning Office was in September and requested assistance in moving that date up. Commissioner Gipe agreed to set up a meeting with Forrest Sanderson.

Johnson reviewed the list again. He advised that they would be doing half of Broeder Loop now. Downtown Bigfork and Somers were done. **Flathead Drive** and **Oregon Street** both need some work. The project has been put off for three years and the state is urging them to move the road off of their property. Garland was committed to assuming that it was on right-of-way but it is going to be a complete reconstruction. Commissioner Hall requested that a letter asking for a partnership be prepared.

Johnson advised that they would be rebuilding on Hoffman Draw as time allows. Johnson noted it would be hard to finish that road with the utility problems. Johnson advised that a commitment to the people on **Danielson** was made for **Managhan** and Danielson. He speculated the school was going to do a portion of that work. Johnson had surveyed the road and now they would have to prepare the right-of-way and then the school would do what their funds allowed, probably to the bottom of the hill provided the county cleaned the right-of-way and built the subgrade. The county then would have to go from Managhan up to where the pavement is but not this year.

Chairman Watne confirmed that they were paving a mile of Managhan this year.

Johnson reviewed the list of roads that would take little work to complete the paving. **Ashley Lake Road** on the way up toward Brist needed some gravel and it could be paved. Commissioner Watne questioned whether it would be entitled to receive forest designation. Johnson advised that it didn't fit the criteria as most of the land was BN. Johnson continued that Blankenship Road has seen an increase of traffic over the years and except for one narrow spot it is ready to go. **Browns Meadow Road** and a piece of **Edgewood, Jensen Road, and K M Ranch Road** could be paved with limited work. Johnson advised that while they were in Somers they took care of **Lesley Avenue**. Johnson noted **Lost Prairie Road** (Boisverts Hill) has been discussed by the board several times. Johnson advised that the state has concerns of sedimentation into the water from the hill. Chairman Watne expressed concerns if the road were paved it would be very dangerous in the winter.

Commissioner Gipe noted the similarities in McMannamy, Lower Valley, K M Road. Johnson agreed noting that the traffic counts reflected 20 cars separating the top 25 on the list. Johnson expressed frustration with how to get them all done. It takes 55,000 tons of asphalt. The county is putting out about 70,000 tons of asphalt a year. Then the county needs to get into the overlays. A subdivision in Coram is increasing traffic on **Trout Avenue**. We have some work planned on **Truman Creek** on the curve and **Rogers Lake** needs some work done before it can get paved.

Johnson noted that everything on the overlay list needs to be completed desperately. **Farm to Market Road** is a prime example, if it isn't overlaid, the road is going to be lost. Johnson reiterated he didn't have enough money or time to do it all. The overlays is one hundred and some odd thousand tons of asphalt. Johnson has put off chipsealing for the past two years. It costs anywhere from \$5 to \$6,000.00 a mile but it gives the road another four or five years. He noted he would probably scale back on overlays and do some chipsealing because they are starting to see the wear on the asphalt.

Johnson stated that he would make whatever cuts are necessary and if they do get the funding they will go back and start paving but he was going to scale paving operations back to strictly the major high traffic count roads. That means **Evergreen** isn't going to get a whole lot. This year paving resources are going to put into connectors or arterials. Chairman Watne requested a revised list of what is scratched. Johnson advised he would bump something off to take care of Auction Road and get that portion of Broeder Loop to the top of the hill done.

Johnson advised he would be doing some paving for the fair.

Chairman Watne confirmed he would be getting Managhan done. Johnson advised they were working on **Holt** presently utilizing asphalt tailings and would put asphalt on a mile of the road. Commissioner Hall questioned whether that was a priority. Chairman Watne expressed concern when the new bridge is completed Holt would become a major thoroughfare. Chairman Watne and Commissioner Gipe agreed to paving the first mile.

Johnson reiterated a need to formulate a consistent response to the public about their roads as he sympathizes with their needs.

Johnson advised an evaluation relative to speed limits would be done county wide this winter.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 10, 2003.

TUESDAY, JUNE 10, 2003

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

7:30 A.M. Commissioner Hall is to attend a meeting with Charlie Grenier and Mike Collins at Sun Rise Bakery

MEETING WITH SCOTT PAYNE AND DAVE DEGRANDPRE/FLATHEAD BASIN COMMISSION RE: EPA GRANT/MOUNT CREEK ROAD

Present at the June 10, 2003 9:00 A.M. Meeting were Chairman Watne, Commissioner Hall, Dave DeGrandpre, Mark Holston, Scott Payne, Road and Bridge Superintendent Charlie Johnson, Assistant Avery, and Clerk Eggum.

DeGrandpre introduced himself as the Chair the Flathead Basin Commission; Scott Payne is a contractor for the Commissioner; and Mark Holston is a public information officer of the Basin Commission. He distributed a handout relative to the Mount Creek Road Relocation Project.

DeGrandpre advised that the Flathead Basin Commission is an organization that was created by the Governor back in 1983. It consists of 23 different member agencies. It is actually comprised of DNRC, Lower Service, DEQ and citizens appointed by the governor; Lake County, Flathead County; conservation districts, etc. Basically the commission does a few different things. Inform different agencies and governments on local water quality issues. It provides public education opportunities and most importantly is to monitor the conditions and water quality in the area and also try to do things to improve them. Historically the Basin Commission has focused on public education and coordination and things like that. Now they are trying to move into the next phase and focus on specific ground efforts to improve water quality. They have been working quite a bit in Ashley Creek in that basin because the studies and information indicate that on a make or break basis that is the drainage in the area that impacts the Flathead Lake system the most. It is the most "polluting" on an acre by acre basis. They have been working with landowners on numerous projects.

Now the Commission has some funds and wants to focus on a road in the Mount Creek area that is putting tons and tons of sediment into the creek. Nutrients in the creek end up in the Flathead Lake system and degrade water quality. Scott is the technical lead on this project for the Commission.

Payne advised there is kind of a watershed effort underway out in Ashley Creek where you get the residents to sit down and meet. We have an actual watershed group. It has been going on for about three years. There are a few grants that have been funded. There is a company that did an assessment on the headwaters and came up with basically seven key projects.

Fixing these seven projects will primarily take care of sedimentation. In the Smith Lake area there are great big deltas of sediment and it is bothersome to the fisherman and it just doesn't help out the system in terms of keeping its longevity up. It is clearly a very important recreational place. These are key projects that deal with the headwaters. There have been several grants that have been applied for. Six of the projects are being funded with three different grants. Two of them have been awarded. The third one will be awarded hopefully in July. That is about \$275,000.00. The seventh project which is the one we are talking about today. Last fall the commission was invited to participate in several other groups and apply for the national competition for the Watershed Initiative. There were 176 proposals put in. This particular group asked for \$1.3 million. It involves the Tristate Water Quality Council, Blackfoot Channel, all of these different watershed groups and also the commission. Out of the 176 proposals this came in number one in the nation. We are excited to say this is part of a recognized watershed effort right now that will probably involve a lot of activity from senators and representatives visiting these various projects. There is \$220,000.00 that was earmarked specifically for the Mount Creek Restoration project. \$220,000.00 has been allocated to move the road off the creek. \$95,000.00 is allocated to actually reclaim the old road. I don't believe that those numbers are set in stone but the \$220,000.00 is kind of the cap. There is an additional \$10,000.00 that may be awarded at the end of July. Making a total of \$230,000.00 that could be put towards that project. Additional help has been through communication with Plum Creek. They are willing to work in partnership on this either with hopefully in-kind services or maybe some land transactions. In addition there are administration dollars that the commission has to basically oversee the grant, make sure the money flows, help with the easements to set up the easements, paralegal type services that are going to be required. The idea is that by July 1 the commission has to respond back to the EPA saying yes we are going to do this project. Because this is

engineering, construction, safety issues, we want to make sure that somebody is going to grab the bull by the horns. The logical entity is the County Road Department. The idea was that today let you know that the money is there and hopefully get some type of answer yes we would like to do this project. We didn't think we were going to be number one in the whole nation let alone get the money. We were awarded this funding and we would like to do something with it. There is an additional \$10,000.00 that could be put toward this project.

Some of the other six projects are on Ashley Creek and Truman Creek. The potential was so big and this particular EPA grant was ideal to get this road project done. The other grants are necessarily ideal. My job as a grant writer is to look around and find the right kind of money for the job we want to get on the ground. There is basically a \$25,000.00 future fishery grant that is going to be applied to Ashley Creek. That has been awarded. There is a \$100,000.00 renewable resource grant which has been awarded. That is the additional \$10,000.00 for this project. Then there is another project called the U. S. Fish and Wildlife Grant and that is basically money from NRCS that goes through this non-profit nationwide organization and that is being awarded hopefully in July. The other two grants can't be officially used until we get this last grant. That is typically how I set it up. It is an all or nothing deal. You are guaranteed the match. Those monies are there but they are kind of earmarked for other projects.

Commissioner Hall noted that they had looked at the road and a proposed relocation and questioned whether there would be enough money to complete the project. Johnson acknowledged that it is going to be tight. Basically Scott got his figures based on Plum Creek and I am assuming they consulted with Eurico for the construction. We haven't done any of the engineering yet. We have some issues we have to work out through the engineering portion. I think that the county is going to end up doing some of the surveying in order to make this all fly. The county rebuilt this road. They made a vertical cut and shoved it over into the creek. At one time, the County faced fines of \$25,000.00 a day. We put in some temporary measures until we could work through the process. We have been working on this since I have been here. Chairman Watne recalled that it was right when Johnson came to the county he installed all the drains and the road still wants to slough. Johnson noted that it was a temporary measure. Johnson noted the state could have made the county fix this road long ago but they have been patient and work with the county through the Flathead Basin Commission.

Holston advised that those drains are completely clogged this year. We had a field trip with our watershed group up there last weekend and there are big puddles of silt still on the cut side that didn't quite make it over the road and into the creek. You can see this very fine silt. Johnson agreed and noted that the drains were working but it is not the ideal situation. Every summer Johnson has to change the filter cloth. It is a maintenance nightmare for the Road Department and this would help divest the county of the problem.

Payne continued that they have had discussion with Plum Creek and they have expressed an interest in donating the land. He suggested that there might be a benefit to actually purchasing the land from them and having them provide engineering services as an example. There may be some opportunities that are a little more beneficial for cost saving reasons. In addition there are some development issues in that area up above away from that creek and this road may provide benefit to others that would like to maybe be up on the top of the hill. Johnson noted he is basically dealing with three landowners. Plum Creek is the major one and Don Feller and Stoltze.

Payne advised that this is a great project but the commission itself has to have some support that the road will be built if the money is accepted, the road has to be built. That is the key, and my advice is if you don't think you can build it don't accept the money because it is more of a mess than you got yourself into a hole that you can't get out of. Chairman Watne questioned what the timeline was. Payne responded that it was a couple of years. It could probably be accepted for three if need be. If we had the design done and we were waiting for easements or something, we could probably stretch to three years. Which isn't a great amount of time but it is probably enough with some pushing on my end. Johnson agreed it could probably be done in three years. Plum Creek is really interested in this project. You can look to Plum Creek for the clearing. That takes away from the costs of the construction. One of the things that Scott and I talked about was purchasing the land and letting them the engineering. It saves us a little bit in there. The project will have to go out to bid. The Road Department would not build the road.

Commissioner Hall questioned the viability of a proposed subdivision in the area contributing to the costs of the road. Johnson clarified that he was unaware of a planned subdivision but knew that there had been an extreme amount of cooperation from Plum Creek to see this project built.

Payne explained the process to reclaim the property nothing that he had to come up with those costs himself. You need some engineering first. Hopefully you basically put in the new road. You are going to have to excavate material that is going to be brought around and put on the road grade. Perhaps there is some recontouring of the old road grade itself. Basically it is covered, you salvage the soil that you strip off the new road, recover the old road and then one of the things that we did talk about is that the commission has eight contractors on board we have all these people that plant plants and have nurseries so we could handle that part of it. I don't know the exact cost of that but whatever that is that is something the commission could actually just say don't worry about, we will take care of getting that thing planted. Just get the soil over there and we will do the final.

Commissioner Hall agreed with the need to move forward and it was a positive thing but thought it looked like very conservative figures to do a project of that magnitude. Johnson agreed there was no money to burn. Roughly for us to build roads costs about \$140,000.00 a mile on a road of this magnitude. That would be a road with paving. Now this is going to entail a little bit more work than we would normally do but we don't have the paving in there but paving is about \$40,000.00 of the costs of a mile of road. We have to make a few other things happen to do this.

DeGrandpre responded that they were trying to put together all the partners who can play in this and everybody gives a little bit. It is rare that an organization can actually come to you with money here is \$200,000.00 to do a project can we do it. I know we are asking something of you at the same time but we are in the business of building partnerships.

Hall questioned whether there money could be used to take care of the current situation. Johnson responded that there are some real faults with that road. There is a fracture line along the end of the slope. That slope was never keyed in properly. We all have lived in fear of that slope failing and plugging off that creek. I think any other further work up there will only exasperate the problem. This is just like that other project on Ashley. This is one of these situations where the county has massive exposed liability. If we don't deal with this the county will at some point. Otherwise I wouldn't be sitting here today trying to promote this. Chairman Watne agreed noting that every spring the road does slump down a little. It is just a matter of time before we lose half of that road.

Payne advised that if we are really short for some reason the Commission using my services can try to find even more grants. It is not like it is a dead end street. My job is to try to make these jobs happen and if there is a problem in my cost estimate then I want to fix it.

Commissioner Hall made a **motion** to endorse the project. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

10:00 A.M. Meeting with Loren Frazier/MDOT re: Big Mountain Road at Kalispell MDOT Office (till noon)

2:00 P.M. Building Committee Meeting at Commissioners Meeting Room

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 11, 2003.

WEDNESDAY, JUNE 11, 2003

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

Assistant Avery is to attend a GASB-34 and Legislative Seminar in Missoula

MONTHLY MEETING W/FORREST SANDERSON, PLANNING AND ZONING OFFICE

Present at the June 11, 2003 9:00 A.M. Meeting were Chairman Watne, Commissioner Gipe, Planning and Zoning Director Forrest Sanderson, and Clerk Eggum.

General discussion was held relative to planning seminar in Billings; quarterly update; eliminate PILT payment to planning/increase fees; growth policy; seminar on SB326; no hire for OAI; revamping county zoning regulations re: signs (license for sign); changing planner of the day system; MACo fall conference in September to speak; RSIDs; changing regulations to require paving change definition of primary access road; custom and culture before growth policy; building permits around cities expire October; review resolution 509; Community Development Block Grant.

PUBLIC HEARING: RODEO ARENAS TEXT AMENDMENT/FLATHEAD COUNTY ZONING REGULATIONS

Present at the June 11, 2003 9:30 A.M. duly advertised public hearing were Chairman Watne, Commissioner Gipe, Planning and Zoning Director Forrest Sanderson, and Clerk Eggum.

Sanderson advised that the report contains 11 points. The statute says 12. All 12 statutory points are addressed in the report given to you by the Planning Board a couple of them were combined into one.

Chairman Watne opened the public hearing to anyone wishing to speak in favor of or in opposition to the text amendment. Seeing no one in the audience, Chairman Watne closed the public hearing.

Commissioner Gipe made a **motion** to adopt Staff Report FZTA-03-04 as findings of fact. Chairman Watne **seconded** the motion. **Aye** - Watne and Gipe. Motion carried by quorum.

Commissioner Gipe made a **motion** to adopt Resolution No. 955EL. Chairman Watne **seconded** the motion. **Aye** - Watne and Gipe. Motion carried by quorum.

RESOLUTION NO. 955EL

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 11th day of June, 2003, to consider a proposed amendment to the text of the Flathead County Zoning Regulations by amending Section 3.08.030 to allow rodeo arenas as a conditional use in SAG-5 (Suburban Agricultural) zoning districts.

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205, M.C.A., on May 31 and June 7, 2003.

WHEREAS, the Board of Commissioners heard public comment on the proposed amendment to the Flathead County Zoning Regulations at that hearing; and

WHEREAS, the Board of Commissioners has reviewed the recommendation of the Flathead County Planning Board regarding the proposed amendment.

NOW THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., hereby adopts this resolution of intention to amend Section 3508.030 to, allow rodeo arenas as a conditional use in SAG-5 (Suburban Agricultural) zoning districts as set forth on Exhibit A hereto.

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

BE IT FURTHER RESOLVED, that written protests to the adoption of the proposed change will be received from persons owning real property within any zoning district heretofore created by Flathead County, for a period of thirty (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 adoption of the proposed change, the change will not be adopted.

DATED this 11th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Howard W. Gipe
Howard W. Gipe, Member

By: /s/ Vickie M. Eggum
Vickie M. Eggum, Deputy

By: _____
Gary D. Hall, Member

Exhibit A
Text Amendment
Flathead County Planning and Zoning
FLATHEAD COUNTY ZONING REGULATIONS

Section 3.08.030 SAG-5 Conditional Uses

(24) Stables, riding academies **and rodeo arenas.**

Commissioner Gipe made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intention and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Gipe. Motion carried by quorum.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION

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. 955EL) on June 11, 2003, to adopt a proposed amendment to the text of the Flathead County Zoning Regulations.

The proposed amendment would amend Section 3.08.030 to allow rodeo arenas as a conditional use in SAG-5 (Suburban Agricultural) zoning districts.

The Flathead County Zoning Regulations are on file for public inspection at the Office of the Clerk and Recorder in Permanent File number 93270 13500. The proposed amendment is on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, and at the Flathead County Planning and Zoning Office, 1035 1st Avenue East, Kalispell, Montana.

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 change to the Flathead County Zoning Regulations, from persons owning real property within any zoning district heretofore created by Flathead County 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 11th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

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

By: /s/ Vickie M. Eggum
Vickie M. Eggum, Deputy

Publish on June 16, and June 23, 2003.

Commissioner Gipe excused himself to attend an appointment out of the office.

Commissioner Hall was seated.

COS REVIEW: PORTER

Present at the June 11, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioner Hall, Planning and Zoning Director Forrest Sanderson, Tom Sands Sands Surveying, and Clerk Eggum.

Sanderson reviewed the chain of title and noted that all names were listed on the property and where they are on the title it cannot be a family transfer.

Commissioner Hall made a **motion** to continue the COS review for a later date. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: KNOLL AND WEED ZONE CHANGE/BIGFORK AREA ZONING DISTRICT

Present at the June 11, 2003 10:00 A.M. Meeting were Chairman Watne, Commissioner Hall, and Clerk Eggum.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

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 Bill Knoll and Herb Weed to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from SAG-10 to SAG-5 are set forth on Exhibit "A".

The proposed change would change the character of the zoning regulations applicable to the property which, in both SAG-10 and SAG-5 districts, are intended 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, by providing for estate type residential development and by reducing the minimum lot size from 10 acres to five acres.

The regulations defining the SAG-10 and SAG-5 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 **1st day of July, 2003, at 10:30 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 Bigfork Area Zoning District.

DATED this 9th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

Paula Robinson, Clerk

By: /s/Vickie M. Eggum
Vickie M. Eggum, Deputy

Publish on June 16, 2003 and June 23, 2003.

Exhibit A Bill Knoll & Herb Weed Zone Change/Bigfork Zoning District Legal Description

A tract of land in the West Half (W1/2), Northeast Quarter (NE1/4) of Section 34, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana, described as follows:

Commencing at the Northwest corner of the West Half (W1/2) Northeast Quarter (NE1/4) of said Section 34, said corner being the True Point of Beginning of the tract of land herein described; thence along the boundaries of said West Half (W1/2) Northeast Quarter (NE1/4) the following three courses:

South 00°16'00" East 2655.12 feet;
South 89°59'56" East 1331.44 feet;
North 00°05'34" East 1327.34 feet to the Southeast corner of the NW1/4NE1/4 of said Section 34; thence North 89°59'22" West along the South boundary of said NW1/4NE1/4 a distance of 26.88 feet; thence North 00°05'34" East 1327.34 feet to a point on the North boundary of said NW1/4NE1/4; thence North 89°58'50" West along the North boundary of said NW1/4NE1/4 a distance of 1321.22 feet to the point of Beginning.

Shown as Parcel A of Certificate of Survey No. 12172

THE END

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROCKY MOUNTAIN RECREATION COMMUNITIES ZONE CHANGE/HOLT AND BIGFORK ZONING DISTRICT

Present at the June 11, 2003 10:00 A.M. Meeting were Chairman Watne, Commissioner Hall, and Clerk Eggum.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing Holt and Bigfork Area Zoning Districts and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

NOTICE OF PUBLIC HEARING HOLT AND BIGFORK AREA ZONING DISTRICTS

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 Rocky Mountain Recreational Communities to change the zoning designation in portions of the Holt and Bigfork Zoning Districts from SAG-10 (Suburban Agricultural) to RC-1 (Residential Cluster).

The boundaries of the area proposed to be amended from SAG-10 to RC-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, to a district to provide a residential theme in a rural environment primarily intended to encourage a master planned community with a central recreational focus with a full range of public services, such as public water supplies and sewage treatment.

The regulations defining the SAG-10 and RC-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 **2nd day of July, 2003, at 9:30 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 Holt and Bigfork Zoning Districts.

DATED this 11th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum
Vickie M. Eggum, Deputy

Publish on June 16, and June 23, 2003.

Exhibit A
Rocky Mountain Recreational Communities
Zone Change/Bigfork & Holt Zoning Districts
Legal Description

The property is described as that portion of Assessor's Tracts 4A, 4AAA, 4B, and 4BA, Section 26, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: CURRY AND SERLES ZONE CHANGE/AIRPORT WEST ZONING DISTRICT

Present at the June 11, 2003 10:00 A.M. Meeting were Chairman Watne, Commissioner Hall, and Clerk Eggum.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing Airport West Zoning District and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

NOTICE OF PUBLIC HEARING
AIRPORT WEST ZONING DISTRICT

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 Roy Curry and Walter Serles to change the zoning designation in a portion of the Airport West Zoning District from AG-80 (Agricultural) to AG-20 (Agricultural).

The boundaries of the area proposed to be changed from the AG-80 classification to the AG-20 classification are set forth on Exhibit "A".

The proposed change would not change the character of the zoning regulations applicable to the property. The agricultural character of the property, intended to protect and preserve agricultural land for the performance of a wide range of agricultural functions and to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to residential development, would remain. However, the minimum lot size would be reduced from 80 acres to 20 acres.

The regulations defining the AG-80 and AG-20 Zones are contained in the Flathead County Comprehensive Zoning Regulations, on file for public inspection at the Office of the Clerk and Recorder in Permanent File number 93270 13500. The proposed amendment is on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana and the Flathead County Planning and Zoning Office, 1035 First Avenue West, Kalispell, Montana.

The public hearing will be held on the **2nd day of July, 2003, 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 Airport West Zoning District.

DATED this 11th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:

Paula Robinson, Clerk

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

By: /s/Vickie M. Eggum
Vickie M. Eggum, Deputy

Publish on June 16, 2003 and June 23, 2003.

EXHIBIT A
Roy Curry/Walter Serles
Zone Change/Airport West Zoning District
Legal Description

The property is described as the N1/2SW1/4, Section 4, Township 29 North, Range 21 West and Tract 2 on COS 13566, which is also located in Section 4, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: FRICKE ZONE CHANGE/HIGHWAY 93 NORTH ZONING DISTRICT

Present at the June 11, 2003 10:00 A.M. Meeting were Chairman Watne, Commissioner Hall, and Clerk Eggum.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

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 Roger Fricke to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from AG-40 to SAG-5 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from those intended to protect and preserve agricultural land for the performance of a wide range of agricultural functions, intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development, to regulations intended to protect and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development. The AG-40 classification has a minimum lot size of 40 acres; a change to SAG-5 would result in a minimum lot size of 5 acres.

The regulations defining the AG-40 and SAG-5 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 **1st day of July, 2003, at 11:00 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 to the Highway 93 North Zoning District.

DATED this 11th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

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

By: /s/Vickie M. Eggum
Vickie M. Eggum, Deputy

Publish on June 16 and June 23, 2003.

EXHIBIT A
ROGER FRICKE
ZONE CHANGE/HIGHWAY 93 NORTH ZONING DISTRICT
LEGAL DESCRIPTION

Location and Legal Description of Property: The property is located directly across US Highway 93 North from the Majestic Valley Arena and Event Center. The property is described as Government Lots 3 and 4 and the East Half of the Southwest Quarter of Section 7, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

TAKE ACTION ON BIGFORK ORIGINAL RESUBDIVISION PORTION OF LOTS 2 & 3, BLOCK 3

Present at the June 11, 2003 10:15 A.M. Meeting were Chairman Watne, Commissioner Hall, and Clerk Eggum.

Chairman Watne advised that the expiration of the preliminary plat was June 13, 2003. The developer has been advised and no response has been received.

DOCUMENT FOR SIGNATURE: QUIT CLAIM DEED/BAKER AVENUE PROPERTY TO CITY OF WHITEFISH

Present at the June 11, 2003 10:15 A.M. Meeting were Chairman Watne, Commissioner Hall, Deputy County Attorney Jonathan Smith, and Clerk Eggum.

Commissioner Hall made a **motion** to authorize the execution of closing documents relative to the Baker Avenue property by Smith. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to approve the Warranty Deed from Flathead County to the City of Whitefish and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

CONSIDERATION OF RELEASE OF COLLATERAL: QUAIL RIDGE, PHASE I

Present at the June 11, 2003 10:15 A.M. Meeting were Chairman Watne, Commissioner Hall, and Clerk Eggum.

Chairman Watne reviewed a letter from WMW Engineering advising that all work had been completed pursuant to the Subdivision Improvement Agreement.

Commissioner Hall made a **motion** to authorize the release of collateral for Quail Ridge, Phase I. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

MEETING WITH FLATHEAD COUNTY MUSEUM BOARD RE: BUDGET

Present at the June 11, 2003 10:30 A.M. Meeting were Chairman Watne, Commissioner Hall, Bernie Olson, Bill Peterson, and Clerk Eggum.

Peterson presented a summary letter to the Commissioners.

Peterson advised that they were working hard to get an accounting system as museums are incredibly complex businesses that little old ladies started out of the goodness of their hearts. An accountant is working with them to look at the holes in the balance sheet. There are a couple of negative balances that have to do with some stocks that the museum owns that are recorded at the end of the year when they do the taxes but not recorded day to day in the basic accounting system that they use for money in money out.

Peterson noted that they have a grant pending with the Murdock Foundation from Vancouver to fund a collections management position so that they can begin to get out into these communities like Columbia Falls and Whitefish and Marion and places like that and do active collecting. Right now the way it works is if someone donates something then they have to make a decision. The grant will fund the first year's salary as long as they can raise the money to fund half of the second year and 10% of the third year. They wanted us to address our sustainability, introduce some corporate memberships. We are going to try a couple of different things. The other issue we need to address is county funding. We are going to continue doing the free days. If we are going to ask the county to pay for this, we are going to work with county government to make sure that everybody in the county has access to what is going on at the museum whether we do that every Friday is free day or whatever. We are working on ways we can do better sustainability ourselves and standing on our own two feet stronger than we currently do. One of those is on the 25th I am going to go in front of the college and we are going to try to present a proposal to them to try and get them to be agreeable to somehow absorbing my salary making me a staff person there. There is model for this at the University of Michigan and the Museum of the Rockies got started that way through a memorandum of understanding from MSU. The final idea is we can then approach the city and ask them to work together. I know they give the Hockaday about \$6,000.00 a year and Chris Kukulski said we ought to be in that for all the museums that we own. We need to get on Parks and Recs mowing schedule. We have a real good relationship with the city Parks and Rec putting picnic tables down there making it green space for people. But they don't provide any of those services right now. We would like to get them to provide some of those services and provide us a facility manager because among other things that I have to do is make sure that the boilers are working, the filters and heaters are changed and the like. In a nutshell, we are not looking to the county with hands out. We are going to continue to try and grow and make it into what we think residents feel it really could be. Again it is the seventh largest museum in Montana. This is first step in getting some of the basic life support needs met.

Commission Hall acknowledged that they have done a good job. He questioned whether the shortfall that is shown is carried over. Peterson explained that in the past they have just made that up with pledges and donations. They had some money in the bank; they sold stock to make the ends meet. Basically, it has been kept going by a few people who care a lot that have some resources. Those people would like to spend their money on programs. They would like to have an education programs. The local history initiative this year that brought the high school students in and let them work on an exhibit, those are the kinds of programs that once we get our basic life support met, we can grow with.

Commissioner Hall suggested that an explanation as to what the M stands for on signs be provided to tourists. Peterson advised that they are working with marketing. The direction we are heading for the Museum, it is more than a museum which is the tag line. It is meeting spaces, it is history classes. It is a picnic place. It is half a park. It is a beautiful setting.

Olson stated he was hoping for the county's support because so many counties state wide receive that support. Commissioner Hall advised that the only way to generate the funding would be to go to a vote of the people. Chairman Watne noted that if the county is going to help this museum they would be obligated to help all the county museums so their request for one-half a mill would have to be about two mills proposed to the voters.

Olson questioned whether there was any way they could help this year. Chairman Watne noted that all the budgets were coming in higher than expected and until they were done with the budget process they would not know what was available. He reiterated their willingness to put the request on the ballot. Olson noted that would take them to June of 2004 and he was hoping to get some temporary support until they could get to that next step. Peterson noted that they have been providing support to the other museum as well and as that relation ends up being a storage facility for things that are too fabulous to let go. Commissioner Hall noted the upgrades that were needed such as temperature control.

Chairman Watne stated that they would look for funds after the budget process was completed.

MEETING W/BONNIE OLSON/DISTRICT COURT RE: INDIGENT DEFENSE

Present at the June 11, 2003 10:45 A.M. Meeting were Chairman Watne, Commissioner Hall, Bonnie Olson, Judge Stewart Stadler, Judge Ted Lympus, Deputy County Attorney Jonathan Smith, and Clerk Eggum.

Olsen presented to the Commissioners a handout relative to the state and indigent defense costs and the draft policies.

11:00 A.M. - County Attorney Meeting @ County Attorney's Office.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 12, 2003.

THURSDAY, JUNE 12, 2003

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

Commissioner Hall is to Travel to Helena

MEETING W/JED FISHER, WEED, PARKS AND MAINTENANCE RE: BIKE PATH MAINTENANCE

Present at the June 12, 2003 9:00 A.M. Meeting were Chairman Watne, Commissioner Gipe, Weed, Parks and Maintenance Director Jed Fisher, Ed Boom, Horace Sanders, Val Parsons, Quincy Moore, Mary Jo Gardner, Helen Pilling, Assistant Avery, and Clerk Eggum.

Fisher advised that they were there to discuss options in an effort to establish some method to maintain and take care of the trails that are already built and will be built in the future whether it be CTEP funds or the actual Rails to Trails program. Fisher noted that he put \$10,000.00 into the Parks Department budget to help do some of the basic needs. As you will recall costs are anywhere from \$2,000.00 to \$6,000.00 a mile to properly take care of trails. When you consider chipsealing, fencing needs, grass, mowing, erosion control and all the things that can come along with that, signage and such, \$10,000.00 is just the bare minimum to be able to do some improvements and keep these trails looking somewhat decent hopefully taking care of some of the grass that is encroaching. We won't have a trail in five years from now if we don't do something to try and keep the basic maintenance up. If we are going to build them we are going to have to establish some method to be able to take care of them. Otherwise, I think we are throwing money away. Fisher reiterated the need to have a definitive plan for chipsealing, overlays, working with Charlie Johnson and these folks or the county is really doing a disservice to the community overall. Fisher encouraged the Commissioners to come up with ideas on ways to fund maintenance.

Chairman Watne questioned what maintenance of the trails was required in the winter. Fisher responded that the people that he has talked to feel that they should be looked at as cross country ski trails in the winter. However, when the funds were approved they are to be kept clear all year round. Either we need to do some new resolutions or something that since we are a climate that isn't conducive to winter use other than cross country trails and work with the system to just have seasonal trails. I think we are opening up a huge liability if we even try to keep them clear in the winter. Fisher suggested that issue be discussed before the County develops new trails. Chairman Watne stated that it needs to be taken care of before the trails are built. Fisher responded that we need to have some type of process that sticks aside x amount of dollars per trail per mile that is built in a trust account to work off the interest to be able to take care of them. Crowley advised that CTEP is fairly open in their interpretation of maintenance. If we indicate up front that we propose for a trail to be summer use for bicycles and winter use for snow shoeing and cross country skiing transportation they are comfortable with that. As far as trails that are already in existence, they are not particularly concerned. They are pretty much leaving it up to the local governments to maintain them in a manner that is conducive to that environment. They are not putting any pressure on us to plow them or maintain them through the winter or the like. Chairman Watne questioned whether there was an issue of liability by not plowing them.

Fisher advised that by the Edgerton School they continue to have those little 8" stop signs vandalized every time they are put up. We have the liability issue and there are no funds to keep replacing them at \$20.00 every other week as they get stolen.

Commissioner Gipe acknowledged that he has been concerned about these issues all along. He stated he had no objection to putting \$10,000.00 in the budget for such expenses.

Fisher referred to the people in the audience as willing to work with the County on fund raisers if they can establish some type of account that they can possibly work with the county on matching dollars and ways that they can help the county with the maintenance.

Parsons advised that they have been working with members of the community, church members, the Lions Club, and Girl Scouts. They have planted trees, bushes, reseeded areas, picked up litter, emptied trash cans. Rails to Trails has had so many positive comments. So many kids and families utilize the trail at Peterson School and make the whole project so worth it. It is as nice as Woodland Park or Lawrence Park. As a volunteer group raising the money, having meetings and then maintenance on top we feel like you do, we can't keep this up. I can't even tell you how many hundreds of hours Sonny has been down at Somers watering trees. We are working on it but we are definitely willing to help but what we really need right now is weed control. The Lions just cleaned up Meridian. We got all the junk picked up. It is ready to be sprayed.

Sanders advised that weed control is a big issue. The railroad didn't do anything about weeds and the trails are wonderful but some go through the biggest weed patches in the county. Once we are on top of those and get some grass in on all these new trails, it is going to help a lot. Chairman Watne agreed that unless the adjoining property owners take care of the weed problem, it is not going to do much good to take care of the problem along the trail. Fisher advised that the railroad does spend \$20,000.00 a year in Flathead County and they concentrate so much on the main line that they really don't get off in the other areas a whole lot. They have a private contractor that comes in. Fisher requested a letter from Rails to Trails with their concerns and he would pass that on to them and say this is a priority as well. And maybe a little bit of that money can go to alternative areas. Once we get those weeds cleaned up we can then come in and broadcast some native grass seed and get some decent competition in those areas. That is going to help with erosion, weed control, multi benefits. It would help to fight knapweed.

Fisher confirmed with the Commissioners that the \$10,000.00 be utilized on everything from a tree that falls over a trail to the stop signs to basic mowing and spraying needs that both Rails to Trails have as well as the normal CTEP trails.

Fisher requested some funding for pot hole patching for the Road Department to do repair work on the trails. If we don't repair some of the cracks and pots holes as they appear, we are going to have a real problem a few years down the road.

Pilling suggested that a sign at the beginning of whatever trail to say that this is a winter recreational trail as well so that people don't expect to find clear trails. Fisher noted that he could either order signs privately or work with the county sign shop. Pilling noted that there are grants available for signing if you can get them.

Boon advised that he had talked with the Somers School Superintendent and he indicated a willingness to provide work parties for the trail during the school year. He noted they were having a work party the next evening and in the past they have had a pretty good turnout.

Crowley noted that his office would be going through the public solicitation process soon for the next CTEP funding priority list and maybe at that time the sponsors could be advised that they need to come up with 15% of the actual construction costs rather than the 13% to provide 2% that could go into a capital account that could be earmarked for all of the trails. At that same time request or demand that they do like Rails to Trails, maintain it, pull the weeds, pick up the garbage. A lot of these sponsors get the trail built and they are gone. Rails to Trails has been the ideal sponsor. They are continually there and years down the road they are still maintaining the Somers trail. Perhaps my office needs to encourage that a little more as the new trails come up. Fisher agreed that was a good suggestion.

Commissioner Gipe advised that they would work with them.

CONSIDERATION OF LAKESHORE PERMIT: LOVE

Present at the June 12, 2003 9:30 A.M. Meeting were Chairman Watne, Commissioner Gipe, Planner Lindsay Morgan, Assistant Avery and Clerk Eggum.

Morgan reviewed Lake and Lakeshore Construction Permit filed by Mary Pat Love on Whitefish Lake to install an L-shaped EZ dock. The Whitefish Lakeshore Protection Committee approved the permit. General discussion was held.

Commissioner Gipe made a **motion** to approve Lakeshore Permit #WLP-03-13 and authorize the Chairman to sign subject to 12 conditions. Chairman Watne **seconded** the motion. **Aye** – Watne and Gipe. Motion carried by quorum.

CONSIDERATION OF LAKESHORE PERMIT: MORAN AND CHWYL

Present at the June 12, 2003 9:30 A.M. Meeting were Chairman Watne, Commissioner Gipe, Planner Lindsay Morgan, Assistant Avery, and Clerk Eggum.

Morgan reviewed Lake and Lakeshore Construction Permit filed by neighbors Matt Moran and Ed Chwyl on Whitefish Lake to install a shared trampoline. The Whitefish Lakeshore Protection Committee approved the permit. General discussion was held.

Commissioner Gipe made a **motion** to approve Lakeshore Permit #WLP-03-15 and authorize the Chairman to sign subject to 13 conditions. Chairman Watne **seconded** the motion. **Aye** – Watne and Gipe. Motion carried by quorum.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: CREATION OF RANCH COUNTY WATER AND SEWER DISTRICT

Present at the June 12, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioner Gipe, Assistant Avery, and Clerk Eggum.

Commissioner Gipe made a **motion** to authorize the publication of the Notice of Public Hearing Proposed Ranch County Water and/or Sewer District and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** - Watne and Gipe. Motion carried by quorum.

NOTICE OF PUBLIC HEARING PROPOSED RANCH COUNTY WATER AND/OR SEWER DISTRICT

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Section 7-13-2205, M.C.A., that it will hold a public hearing to consider the creation of the proposed Ranch County Water and/or Sewer District.

A copy of the petition requesting the creation of the Ranch County Water and/or Sewer District is set forth on Exhibit "A" attached hereto and the boundaries of the proposed District are set forth on Exhibit "A2" attached hereto.

The public hearing will be held on the 1st day of July, 2003, at 9:15 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 members of the public an opportunity to be heard, and will consider any written protests that have been filed with the Clerk and Recorder's Office prior to the hearing, regarding the proposed creation of the Ranch County Water and/or Sewer District.

DATED this 12th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By /s/ Vickie M. Eggum
Deputy

Publish on June 17 and June 24, 2003.

CONSIDERATION OF BUDGET AMENDMENT

Present at the June 12, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioner Gipe, Assistant Avery, and Clerk Eggum.

Commissioner Gipe made a **motion** to adopt Resolution #1622. Chairman Watne **seconded** the motion. **Aye** - Watne and Gipe. Motion carried by quorum.

**BUDGET AMENDMENT RESOLUTION
RESOLUTION NO. 1622**

WHEREAS, the Board of Commissioners has determined, and various department heads have requested and verified, that budget revisions between line items for Fiscal Year 2002-2003, are required, and;

WHEREAS, Section 7-6-4031, M.C.A. and Budget Resolution No. 1622, allow budget transfers to be made between items in the same fund. The annual budget appropriations may be amended as provided in 7-6-4006(3)f which states appropriations may be adjusted according to procedures authorized by the governing body for any fund for gifts or donations.

NOW, THEREFORE, BE IT RESOLVED, that the attached list of transfers and revisions shall be made in the budget for Flathead County for Fiscal Year 2002-2003; and

BE IT FURTHER RESOLVED, that this Resolution and the attached list of transfers and revisions shall be entered into the minutes of the Board of Commissioners.

DATED this 12th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

By: _____
Gary D. Hall, Member

By: /s/Howard W. Gipe
Howard W. Gipe, Member

ATTEST:
Paula Robinson, Clerk

By: /s/Vickie M. Eggum
Vickie M. Eggum, Deputy

**COUNTY OF FLATHEAD
GENERAL
JOURNAL
VOUCHER**

DATE ISSUED: 06/12/03

VOUCHER
NO.: 0306-58

DATE OF RECORD: 0306
MCA 7-6-4006

ACCOUNTING COPY

"B"
Entry

Account Number

Description

Line

Debit General
Ledger

Credit General
Ledger

1000-0213-365000			\$54,900.00	
1000-172000				\$54,900.00
1000-0213-411200-341				\$54,900.00
1000-242000			\$54,900.00	
PER MCA 7-6-4006 (f) Appropriations may be adjusted according to procedures authorized by the				
governing body for: (f) any fund for gifts or donations				
Budget increase to book the rebate from FEC for putting energy efficient lights in the Criminal Justice Center.				

CONSIDERATION OF WAIVER OF COMMERCIAL VENDORS' LIABILITY INSURANCE/FAIR WEEK

Present at the June 12, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioner Gipe, Assistant Avery, and Clerk Eggum.

Commissioner Gipe made a **motion** to waive the requirement for commercial and non-profit displayers and vendors, except food vendors, who pay for booth space at the Northwest Montana Fair for the week of the 2003 Northwest Montana Fair will not be required to purchase insurance coverage for the County for that week. Chairman Watne **seconded** the motion. **Aye** - Watne and Gipe. Motion carried by quorum.

CONSIDERATION OF ADOPTION OF RESOLUTION: CAPITAL IMPROVEMENT FUND/FAIRGROUNDS

Present at the June 12, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioner Gipe, Assistant Avery, and Clerk Eggum.

Commissioner Gipe made a **motion** to adopt Resolution No.1623. Chairman Watne **seconded** the motion. **Aye** - Watne and Gipe. Motion carried by quorum.

RESOLUTION NO. 1623

WHEREAS, the provisions of Section 7-6-2219 to 7-6-2221, M.C.A., authorize the County to establish a capital improvement fund, for the replacement and acquisition of property, plant or equipment costing in excess of five thousand dollars (\$5,000.00) with a life expectancy of five (5) years or more, after formally adopting a capital improvement program;

WHEREAS, the Board of Commissioners of Flathead County has determined that the Fair Department should acquire undeveloped property to the North of the current Flathead County Fairgrounds in order to have expansion opportunities in the future, in particular a parcel made up of Tracts 5G, 5M, 5Q and 6BA in Section 5, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana, and a parcel made up of Tracts 5B, 5J, 5N and 5BA, also in Section 5, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana; and

WHEREAS, estimates for acquisition of the properties are \$360,000.00 and \$420,000.00, respectively.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County hereby formally adopts a capital improvement program to be known as the Flathead County Fairgrounds Property Acquisition Capital Improvement Program.

BE IT FURTHER RESOLVED that the purpose of this program will be to acquire undeveloped property near the current Flathead County Fairgrounds.

BE IT FURTHER RESOLVED that the anticipated cost of this program, based upon estimates for purchase of the two properties is approximately \$800,000.00.

BE IT FURTHER RESOLVED that the anticipated sources of revenue for this program are appropriations from the budget of the Fair Department and interest on the money in this Fund.

BE IT FURTHER RESOLVED that the Clerk and Recorder shall initiate a fund to be designated the Flathead County Fairgrounds Property Acquisition (Fund #4013).

BE IT FURTHER RESOLVED that monies held in the fund shall be invested and all interest earned by the Flathead County Fairgrounds Property Acquisition Fund shall, as provided by Section 7-6-2702, M.C.A., be credited to the Flathead County Fairgrounds Property Acquisition Fund (Fund 4013).

DATED this 12th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson

By: _____
Gary D. Hall, Member

By: /s/ Vickie M. Eggum
Vickie M. Eggum, Deputy

By: /s/Howard W. Gipe
Howard W. Gipe, Member

AWARD BIDS: INTERIOR WORK/FAIRGROUNDS BUILDING

Present at the June 12, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioner Gipe, Assistant Avery, and Clerk Eggum.

Commissioner Gipe made a **motion** to award the bid to Terry Hodges Construction in the amount of \$128,460.00 plus \$40,812.00 and Bison Building Systems, Inc. in the amount of \$44,500.00. Chairman Watne **seconded** the motion. **Aye** – Watne and Gipe. Motion carried by quorum.

PUBLIC HEARING: CLUSTER DEVELOPMENT TEXT AMENDMENT/FLATHEAD COUNTY ZONING REGULATIONS

Present at the June 12, 2003 10:00 A.M. duly advertised public hearing were Chairman Watne, Commissioner Gipe, Caryn Miske, Jeff Larsen, Don Hines, Dawn Marquardt and Debbie Shoemaker of Marquardt and Marquardt Surveying, Planning and Zoning Director Forrest Sanderson, Larry Linne' Assistant Avery, and Clerk Eggum.

Sanderson advised that this was a request to amend the Flathead County Zoning Regulations by providing additional development opportunities for properties that utilize the Cluster Development provisions. He added that this was one of the decisions enacted by the Board of County Commissioners in the post 10/1/01 era. We are now operating under the limits changed under the growth policy given by Senate Bill 326 which gives us an entirely different standard of review for zoning changes. This specific proposal deals with residential clustering standards in the agricultural and suburban agricultural districts. Under the old rules, a person in the AG and SAG districts that propose to utilize the clustering provisions was required to forever lock down a percentage of their ownership forever. The direction that came through the planning process was that the concept of open space for subdivisions in these districts is valid but the concept of forever has a number of problems and those problems primarily being forever creates defacto urban growth boundaries around our cities and urban growth boundaries defacto or otherwise destroys affordable housing. They hamstring the ability of cities to extend services passed these vast undevelopable blocks of land forever. One of the principles in the master plan deals with agricultural lands. If we look at what was a viable chunk of agricultural land 100, 50 or 20 years ago, that definition changes the need for protection is modified through time by locking down lands in the fringe areas. Because a farmer has to do some development and use the cluster so they can keep their operating farm or ranch in place, you dictate a lifestyle to people and the findings of that is not what we are here to do. You couple that with the fact that Flathead County is already almost 81% permanent open space either through federal or state ownership, the idea of locking down forever what could be transitional lands or lands that are divided to get through some economic hard times and retain your agricultural occupation by choice rather than by force was a positive. Those were the big reasons that we drove these things through the first time. If you lock down land as the regulations require forever, you set an

urban growth boundary around the cities. You drive up the cost of housing. You defeat affordable housing. You force redevelopment at higher and higher densities. The reason it is defacto is public water, public sewer past properties that cannot be developed and connection to the sewer is cost prohibitive. You start spending millions of dollars to bring those municipal services past property and there is no development. The proposal does not do away with open space. It locks it until the planning and zoning documents changed. If our forefathers had drawn a line around Kalispell 100 years ago, most of the homes that we live in would not exist through this open space standard. All this does is say you can do your cluster. We are going to hold you accountable to the zone you are in. If it doesn't change for 100 years so be it that is the public will and the will of the governing body but if it does change as things have in the Flathead and recently quite quickly, the governing body and future generations have the opportunity to affect those changes through the responsible process and laws in effect at that point in time. The Planning Board weighed in all of that. They evaluated the 12 statutory criteria contained in the law and they recommended that you reaffirm this decision.

Chairman Watne opened the public hearing to anyone wishing to speak in favor of the text amendment.

Larsen advised that he was a member of the Planning Board. I am not necessarily here representing the Planning Board. I am more here representing my 10 year old daughter who someday might want to have a say in planning in Flathead County. This is one of the most important issues I think I have seen in my entire career with regards to planning. I think the cluster concept is a great concept to help save farmland. One of the problems I have run into though and I have worked with a lot of long time farmers in Flathead County who come into my office all the time and expect to talk about doing clusters and they hate the idea of locking up their property forever; perpetually locked up forever. Can you imagine us thinking we have the knowledge to know what is best for every future generation that is going to follow us forever. The thought of that just really bothers me; that we would think that we know better than our kids and everybody else what they might want to do with their property. I think that if we are going to do planning, we should allow future generations to do it also. You guys have done a pretty good job I think in the past as Commissioners of trying to review and do what is best for Flathead County on different types of projects and I think we are going to lock ourselves out of that. There is a lot of development going on west of the City of Kalispell right now. They are spending millions of dollars to get those services out there. If we would have locked all of that up in permanent open space, they will finally get those services out there; have invested millions of dollars of infrastructure and we would have to somehow try to extend those maybe a mile past that open space that would have been locked up. That doesn't make sense to me. Maybe a governing body might want to trade that for open space farther out but I think the governing body should be able to review that when it comes time to do that. Essentially, I just think as far as planning goes, I think we will get more cluster developments because people aren't acceptable to this perpetual open space. I think it gives the Commissioners and the governing body a say in what is best for the community. We are not going to be able to just ignore that open space. It has to go through a public process again to take it out of open space. And it may not be in the public interest for 100 years. Maybe that is what we want to leave it as but would if the city finally does get out there. Could you imagine if they would have done that in some of the big cities. You would have these great big holes of open space and all this infrastructure that was invested in money and just investing more and it causes people to go out farther into the community. I just can't see where it makes any sense.

Linne' advised that he was also a member of the Planning Board. If you remember just three years ago, we started the subdivision process on property west of town and it is kind of interesting because Narda Wilson at that time one of the planners said that we shouldn't lock those properties up in five acre chunks because we don't know what is going to happen 10 years down the line. It has only been three years and now they have annexed part of that property into the city. Three years. We just don't know what is going to happen in the future. Like Jeff said, we can't dictate to our kids now what is going to happen in this county 10, 15, 20 years. It is just going so fast. We need the Commissioners to be able to act on things as they come about. It gives you more flexibility in planning this county then to put things in open space forever. It is just a silly concept. It just needs to go away.

Marquardt stated that she thinks the points everyone has made are very valid. I think that from a planning standpoint to lock something up forever is really (tape ends) and it is not taken care of by the county and at some point in time, it may become if nobody is taken care of it and it has no value, what is going to happen to that property. It is going to be sitting there and it is not going to be good for anybody. From a planning standpoint, you have to be flexible with these things. You can't say forever.

Hines advised that he is also a member of the County Planning Board. Everything that everyone has said here this morning is very valid. It just goes on to prove that we do need to get a growth policy in place that is a living document that we can work with continuously into the future for other generations. We do not need to be tying up this property and hamstringing ourselves with future developments.

No one else rising to speak, Chairman Watne asked for anyone wishing to speak in opposition to the text amendment.

Miske presented the Commissioners with a letter.

Miske then advised as follows: I am here today representing the Country Highlands Homeowners Association. I just want to make clear before I say anything else that my clients are not opposed to cluster provisions. In fact, they think clusters in general are a good idea. That being said, they are opposed to the way the cluster provision has been amended and mostly because the changes that can occur as a result of the provision really can cause very significant changes in land use patterns. I will give you an example: If 100 acres of land was zoned SAG-5 eventually, 75 houses could be built on that land covering almost the entire parcel minus the small park allotment under the subdivision rules. Conversely under the existing cluster provision, if you had 100 acres of SAG-5 you would get 30 homes on 40 acres essentially leaving 60 acres in open space. There has been a lot of talk about rewarding developers for doing clusters and again generally my clients agree with that. People should be rewarded for doing clusters but the reward is that they get a higher density in exchange for open space. It is a quid pro quo essentially. Webster's definition of cluster is: Cluster is defined as the number of persons, animals or things grouped together. If you have homes over the entire parcel, where is the cluster? A cluster wouldn't really be discernable. Prior to my life as an attorney, I worked as a planning consultant and I advised municipalities just like you and I have never come across a municipality that doesn't have some kind of quid pro quo whether it be open space or affordable housing. Forrest's point about affordable housing is a good one. I think affordable housing is needed throughout most of western Montana. Another way to restructure the cluster provision would be to say the increased density all should be devoted to affordable housing. That would be another way to go about doing that. Again, I don't think my clients are opposed to affordable housing. I think what they are opposed to is that the developer is getting a huge reward. The community isn't getting anything back in return. The Planning Board had a lot of concerns about the in perpetuity language. Aside from your own regulations which would show that you can change that designation in perpetuity, MCA 76-6-107 which is state law also permits changes. So you can go through a process to do that. It wouldn't just be a simple thing. But then again, if you are changing open space that has been designated there should be some thought given to that before those designations are taken away. There are mechanisms for changes to the land if at some point in time it doesn't make sense for that land to remain open. However, if Flathead County does continue to grow as everyone is saying that it is, some of those open spaces, might provide incredible oasis for those people living in those

communities. It would actually be a good thing. Not necessarily a bad thing. Finally, my clients are concerned about this cluster provision because they live and they have bought houses in an area that was zoned. They live in the Highway 93 North Zoning District. They bought houses in areas that have zoning to protect their property rights. If there is a cluster where homes were clustered and space was open that is fine. But they didn't expect to be living in high density areas because the zoning for the Highway 93 North Zoning District is primarily agricultural. I would like to conclude by saying, my clients are not opposed to clusters, they would just like to see the text amendment restructured so that not only developers benefit but that the community benefit as well.

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

Sanderson questioned how Miske arrived at 75 units on a 100 acre tract of land. He noted that under the current standards, open space issue aside, the maximum number of houses that an SAG-5 district utilizing cluster provisions is 30. That is locked down until such time as the planning and zoning documents would change for the area under this proposed amendment. The area included in the cluster subdivision is limited to a maximum of 1.3 acres per lot. You will be clustered. The performance standards on how that cluster subdivision is laid out, you don't get to scattered them all over the 100 acres. They will be locked down to a fixed portion of the property; clustered. Biggest lot 1.3 acres in size for a total out of that 100 acre piece of roughly 39 acres maximum development of 100 acres. I don't have the standards in front of me, but I believe you would have at least 61 acres as open space. The only thing that this proposal changes is what is going to happen on that 61 acres that remains. And it is open space until the planning and zoning documents change. Yes, in the future you might end up with 75 homes but the initial max is 30. The only way that is subject to change is through the public process. The other issue I would like to point out is the regulations do not contain provisions for the governing body to limit or remove the open space provision. That is why this amendment is being discussed. The open space is suppose to be sold to a conservator and held as open space forever. You don't get to go back and rethink it. Yes the law provides for it, but our zoning does not. We are beyond that with our cluster standards. The other point, I would bring up with respect to Highway 93 North, Resolution 837A in the last paragraph of the resolution puts every single landowner on notice in Highway 93 North Zoning District that the regulations for the area can change and that change process comes out of the Flathead County Comprehensive Zoning Regulations. But Flathead County Zoning Regulations at section 2.08 specifically say that the governing body may from time to time as things change, propose amendments, modifications and changes to the underlying zoning regulations. To presume that Highway 93 North or any other zoning district created in this county is a lock down forever, is beyond the scope of your police powers. Quite frankly it is ludicrous. Especially in this exact case they were put on notice that change would occur and the process was spelled out 16 years ago when you enacted the resolution that change would occur. It is the responsible thing. It is why we are talking about this change, things change. When the Highway 93 North Zoning District was created in the late 80s, Flathead County's population was about 50,000 people. We are pushing 80,000 right now. Who would have thought? They were served notice.

Miske noted that the state law would enable the County Commissioners to act regardless of this cluster text amendment. In fact state law trumps county law. There really is no issue about this perpetuity issue. You have the power to change that.

Commissioner Gipe made a **motion** to adopt Staff Report FZTA-03-03 as Findings of Fact. Chairman Watne **seconded** the motion. **Aye** - Watne and Gipe. Motion carried by quorum.

Commissioner Gipe made a **motion** to adopt Resolution No. 955EN. Chairman Watne **seconded** the motion. **Aye** - Watne and Gipe. Motion carried by quorum.

RESOLUTION NO. 955EN

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 12th day of June, 2003, to consider proposed amendments to the text of the Flathead County Zoning Regulations by amending Section 5.09.020 to allow for future development in open space created in cluster developments in residential and agricultural zoning districts.

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205, M.C.A., on May 31 and June 7, 2003.

WHEREAS, the Board of Commissioners heard public comment on the proposed amendment to the Flathead County Zoning Regulations at that hearing; and

WHEREAS, the Board of Commissioners has reviewed the recommendation of the Flathead County Planning Board regarding the proposed amendment.

NOW THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., hereby adopts this resolution of intention to amend Section 5.09.020 to allow for future development in open space created in cluster developments in residential and agricultural zoning districts as set forth on Exhibit A hereto.

BE IT FURTHER RESOLVED, that notice of the passage of this resolution, stating the general character of the proposed changes to the Flathead County Zoning Regulations, that said proposed changes and those regulations are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication thereof, the Board will receive written protests to the adoption of the proposed changes, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests to the adoption of the proposed changes will be received from persons owning real property within any zoning district heretofore created by Flathead County, for a period of thirty (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 adoption of the proposed change, the change will not be adopted.

DATED this 12th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Howard W. Gipe
Howard W. Gipe, Member

By: /s/ Vickie M. Eggum
Vickie M. Eggum, Deputy

By: _____
Gary D. Hall, Member

EXHIBIT A
Text Amendment
Flathead County Planning and Zoning
FLATHEAD COUNTY ZONING REGULATIONS

5.09.20 General Provisions.

1. The differences in area between the (net) residential lot sizes of a cluster site and the total (gross) area of the "parent" tract used in the density allowance calculation must be retained in some form of open space **until such time as the planning and zoning documents for the area are amended to facilitate appropriate additional development.** and restricted as such to prevent the further division of non-agricultural/silviculture use of the required open space.
2. A. Prohibition of any further divisions of land or change in use of the property **until such time as the planning and zoning documents for the area are amended to facilitate appropriate additional development/uses.** This will not preclude phased cluster projects up to the allowed density.
3. C. ~~Provide a 20-year term with automatic extension terms of 10 years each and an amendment clause that requires Board of County Commissioner approval of any changes or alteration of the covenants. The open space shall be used exclusively for agriculture or open space in perpetuity.~~

5.09.40 Open Space Requirements

~~The location and size of the area designated as open space shall be shown on the final plat of the subdivision. A covenant shall be noted on the final plat that open space areas shall be used exclusively for open space, which includes agricultural/horticultural/silvicultural uses, recreational space. A single-family dwelling on open space area 20-acres or larger and utilities are permitted.~~

Commissioner Gipe made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intention and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** - Watne and Gipe. Motion carried by quorum.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION

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. 955EN) on June 12, 2003, to adopt proposed amendments to the text of the Flathead County Zoning Regulations.

The proposed amendments would amend Section 5.09.020 to allow for future development in open space created in cluster developments in residential and agricultural zoning districts.

The Flathead County Zoning Regulations are on file for public inspection at the Office of the Clerk and Recorder in Permanent File number 93270 13500. The proposed amendments are on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, and at the Flathead County Planning and Zoning Office, 1035 1st Avenue East, Kalispell, Montana.

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 change to the Flathead County Zoning Regulations, from persons owning real property within any zoning district heretofore created by Flathead County 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 12th day of June, 2003.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

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

By: /s/ Vickie M. Eggum
Vickie M. Eggum, Deputy

Publish on June 17, and June 24, 2003

1:00 P.M. Commissioner Hall is to attend the Don't Gamble with the Future Meeting in Helena

2:00 P.M. AOA Board Meeting at Kalispell Senior Center

7:30 P.M. Fair Board Meeting at Fair Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 13, 2003.

FRIDAY, JUNE 13, 2003

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

No Meetings Scheduled

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 16, 2003.
