
MONDAY, AUGUST 13, 2007

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

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

Virginia Gazewood read a prepared letter in regards to Spring Creek Zoning, in which she asked the Commission to approve the zone change and include the Etzler's property into that for the health, safety and well being of those on the north end of Flathead Lake.

Peggy Hedin, 206 Westridge Drive, commented on zoning boundaries and the impacts of particular land uses on an area and its residences. She then said that when boundaries are selected impact becomes criterion, and in the case of the proposed Spring Creek zoning district neighborhood, impact was defined as visually through area usage or by road usage; with the impact of any one piece of property varying from slight to drastic, but each piece being integral to the district neighborhood. She then added that ironically the one piece of property that is the most integral to the neighborhood with the highest impact wants to be excluded. She then stated that zoning is about what is good for the entire community.

Janet Conroy, stated that the 90 percent unity that has been received from the neighborhood for the proposed zoning district is exquisite. She then spoke about the possible precedence that could be set with individual parcels being excluded from zoning requests.

Michael O'Brien, a residence in the Spring Creek zoning district spoke about property rights. He then said in a democracy the majority rules and that would be the opinion he sees and observes; in that we look at the community and when you have 90 percent of the people moving in one direction that would be a democracy.

Michael Keretzman, 6120 Hwy 93, a resident in the Spring Creek zoning district gave a brief history of his piece of property that is governed by covenants. He then added that he wishes to keep the neighborhood the same as it has been for years and asked that the Commission approve the zoning request.

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

MONTHLY MEETING W/ JAY SCOTT, FAIRGROUNDS

This meeting was not held.

DOCUMENT FOR SIGNATURE: ANIMAL SHELTER AGREEMENT/ HEALTH DEPT.

[9:17:31 AM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Lauman made a **motion** to approve the Animal Shelter agreement for the Health Department and authorized the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

BOARD APPOINTMENTS: TRANSPORTATION ADVISORY BOARD/ EAGLE TRANSIT

[9:22:35 AM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Hall made a **motion** to appoint Chuck Cassidy, Judy Johnson and Alex Hogle to the Transportation Advisory Board. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF PRINTING BIDS: HEALTH DEPT.

[9:30:51 AM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Lauman made a **motion** to award the health department print bid to North Star Printing for receipt books. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

MONDAY, AUGUST 13, 2007
(Continued)

DOCUMENT FOR SIGNATURE: MONTANA WOOL GROWERS ASSOCIATION MOU

[9:33:50 AM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Hall made a **motion** to approve the Wool Growers Association document and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: QUITCLAIM DEED/ PORTION OF CHURCH DR. TO CITY OF KALISPELL

[9:35:12 AM](#)

Members present:

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

Others present:

County Attorney Peter Steele, Interim Road Department Superintendent Guy Foy, Clerk Kile

Discussion was held relative to the QCD in regards to concerns of the fire department.

Commissioner Hall made a **motion** to continue the QCD until issues are resolved with the West Valley Fire Department. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF ADOPTION OF RESOLUTION OF INTENT: HEDIN ZONE CHANGE/ SPRING CREEK ZONING DISTRICT

[9:45:50 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Kirsten Holland, Michael O'Brien, Michael T. Keretzman, Jean C. Keretzman, Peggy Hedin, Bob Hedin, Carol Ann Chilton, Janet Conroy, W. Richard DuKlow, Lynn DuKlow, Barbara Hartwell, Jim Clark, Virginia Gazewood, Jim Chilton, Jere Jobe, Dan Bangeman, Kathy Robertson, Andy Guy, Janet Guy, Bob Fraser, Jean Burns, Dauson Burns, John Dittman, Bev Etzler, Jim Etzler, John Clay, R. Sibley, Joe Orr, Bruce Jellison, George Everett, Bob Ludwig, Harrison Brand, Roger Sullivan, Neil Flanagan, Fran Ruby, Allison McCarthy, Ardis Larsen, Clerk Kile

Commissioner Hall thanked all those that spoke at the public hearing last week, and stated that this has been the most difficult zone change that he has looked at. He then referred to a comment made by fellow Commissioner Lauman, whom said that it's unfortunate that zoning has to be implemented with neighbor against neighbor. He then said that the president of the Planning Board cautioned the Commission in being careful with exclusionary zoning; and he feels this is what they have with this request. Hall then referred to a zone change that was passed last week where the neighbors that did not want to be included were taken out. He also spoke about the Riverdale Neighborhood Plan where neighbors worked together and zoned themselves, and included only those that wanted to be a part of the zoned district. Also stated was that this is not to say that he is not in support of zoning that has predictability; especially as the county grows, but he is an opponent of exclusionary zoning. He then commented that even though this zone change has close to 90 percent participation, that the record shows it is an intent to stop a neighbor from doing something with their property, and that the majority of the land owners in this area are already R-1, and that the proposed zoning district does not apply to most of those living within it. Hall then said if or when it lands in court, the letters sent to the neighbors clearly show that it was an orchestrated intent and purpose against the Etzler's. He then added that they have been denied their day in court to be able to present their plan, and have it publicly reviewed before the Planning Board and the Commission to make a decision on the proposal. It was then stated that if the condo project had come before the Commission that it probably would look nothing like it was proposed. Hall then said that he would not support that type of density on that piece of property with sewer hook up issues, blocking view sheds of neighbors, which could have been looked at and mitigated for; but they are being denied their rights if the zoning is passed today to go through that process. He then added that there is another proposed zone change in the area by the same people.

Commissioner Lauman stated that he did listen to the public hearing that he missed last week. He then commented that he has always believed in property rights for everyone; that property rights seem to be a situation where sometimes we focus on one person's property rights, but what we do as a property owner affects our neighbors. Lauman said that maybe people need to be more concerned about their neighbors and not just what they would like to do with their property. He then emphasized that he is a property rights person and believes that we should be able to do what we want on our property; but that we shouldn't negatively impact our neighbors. He then spoke about lake front property values over the past few years sky rocketing and now lake view property has become very valuable also, so when you block your neighbors view; you could cause a financial loss to that neighbor. Lauman also spoke about Sheila Norvell speaking about her family living in the area for many years and listened to Virginia Gazewood's presentation on highway safety, and also stated that he listened to Karen Nagelhus as she spoke about selling the property to the Etzler's. He then added that a member of the sewer district did approach the Etzler's about a sewer hook-up for the six lots on the west side of the highway. He then said that the sewer district always focused on the east side of Hwy 93, but that the goal of the district was to move to the west side of the highway and that they would have probably been looking at no more than 100 hook-ups in the total area over a period of time. He then said that it is unfortunate that zoning comes to us when something happens in an area, and that people need to address what is happening in their neighborhood before situations like this come to the board for action.

MONDAY, AUGUST 13, 2007
(Continued)

Chairman Brenneman said that he doesn't agree that the zoning targeted the Etzler's. He then said that in reading letters that were written about the zoning that many reference that they are protesting the Osprey Ridge Condo's; with the majority of the Commission saying that 122 units are not a good idea for the property. He spoke about the decision to put in the five lot subdivision with that plat being filed and then they changed their minds; which we have a right to do, but it is the counties obligation to set up rules, and the rule is if you are going to do condo's you have to aggregate the lots, and while that might not be required by law it certainly is within the counties ability to require that; that it is not illegal to do so. The applicants only needed to comply with sufficiency and they would have been grandfathered in and the zoning would not have applied. He then added that the result of withdrawing the application is that the zoning will now apply to that parcel of ground. It was then stated that in the course of the public hearing the Commission has learned how much was paid for the property and that it appears that development of the property under the proposed zoning would allow for at least a ten fold recovery of the investment, and that it would be hard to see how the zoning would be considered a taking of their investment. Brenneman then spoke about traffic concerns in regards to public health, safety and welfare. He then stated that there would be a 30 day protest period if the resolution is adopted today.

Commissioner Lauman made a **motion** to adopt R-1 Zoning Resolution #2086. Chairman Brenneman **seconded** the motion.

Commissioner Hall stated that after seeing countless zone changes that it isn't that he doesn't support zoning, but that this is exclusionary zoning.

Aye - Brenneman and Lauman. **Opposed** – Hall. Motion carried by quorum.

Commissioner Lauman made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intent and authorized the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

RESOLUTION NO. 2086

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 7th day of August, 2007, concerning the creation of a new zoning district to be known as the Spring Creek Zoning District;

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

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

WHEREAS, the Board of Commissioners has reviewed the recommendation of the Flathead County Planning Board regarding the creation of the Spring Creek Zoning District.

NOW THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to create the Spring Creek Zoning District with boundaries as set forth on Exhibit A, and to zone the area shown on Exhibit A as R-1 (Suburban Residential), as that classification is defined in the Flathead County Zoning Regulations.

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

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

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

DATED this 13th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

By _____
Gary D. Hall, Member

ATTEST:
Paula Robinson, Clerk

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

By: /s/Diana Kile
Diana Kile, Deputy

MONDAY, AUGUST 13, 2007
(Continued)

EXHIBIT A
SPRING CREEK ZONING DISTRICT

A Zoning request to establish the Spring Creek Zoning District, by Robert and Peggy Hedin on behalf of citizens in the area. The area is currently unzoned and the proposal would establish R-1 (Suburban Residential) zoning along a portion of the western boundary of Highway 93 in Lakeside. The property can legally be described as follows:

All that land located in Westridge Unit No. Two Subdivision, a map or plat of which is on file with the Clerk and Recorder's Office of Flathead County, Montana, and all that land located in Government Lots 1, 2, 3 and 10 of Section 34, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana, and all that land located in the North one-half of Government Lot 4, Section 35, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana, and all that land located in Government Lots 2 and 3 which lies west of US Highway 93 in Section 35, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION
SPRING CREEK ZONING DISTRICT

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intent (Resolution No. 2086) on August 13, 2007, to create the Spring Creek Zoning District under Section 76-2-206, M.C.A.;

The boundaries of the proposed Spring Creek Zoning District are set forth on Exhibit A hereto.

The proposal is to zone the property located along a portion of the western boundary of Highway 93 in Lakeside, as R-1 (Suburban Residential). The general character of the zoning district, if adopted, provides for estate type development normally located in rural areas away from concentrated urban development, or in areas where it is desirable to permit only low density development, e.g., extreme topography, areas adjacent to flood plains, airport runway alignment extension, etc.

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

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

DATED this 13th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on August 16 and August 23, 2007.

EXHIBIT A
SPRING CREEK ZONING DISTRICT

A Zoning request to establish the Spring Creek Zoning District, by Robert and Peggy Hedin on behalf of citizens in the area. The area is currently unzoned and the proposal would establish R-1 (Suburban Residential) zoning along a portion of the western boundary of Highway 93 in Lakeside. The property can legally be described as follows:

All that land located in Westridge Unit No. Two Subdivision, a map or plat of which is on file with the Clerk and Recorder's Office of Flathead County, Montana, and all that land located in Government Lots 1, 2, 3 and 10 of Section 34, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana, and all that land located in the North one-half of Government Lot 4, Section 35, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana, and all that land located in Government Lots 2 and 3 which lies west of US Highway 93 in Section 35, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana.

COS REVIEW: BELSTON

10:16:19 AM

Members present:

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

Others present:

Planner Kirsten Holland, Tom Sands, Brent Belston, Clerk Kile

Holland reviewed the chain of title for the Belston property, in which Brent and Colleen Belston wish to transfer parcels to their daughters.

Commissioner Hall stated that he would like to see a fire turn around built.

MONDAY, AUGUST 13, 2007
(Continued)

Commissioner Hall made a **motion** to approve the COS review for the Belston family. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

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

10:45:07 AM

Members present:

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

Others present:

County Attorney Jonathan Smith, Clerk & Recorder Paula Robinson, Finance Director Laurel Raymond, Jan Hardesty, OES Director Mark Peck, Cindy Mullaney, Martha Smith, Clerk Kile

Paula Robinson explained that they took the Forest Service Handbook, Chapter 10 pay codes for the hourly rate for volunteer fire districts and Chapter 50 pay codes for structural protection. She then added that the two pay codes were combined and with that they came up with a salary matrix.

Discussion was then held relative to pay in regards to going through the Forest Service and DNRC.

Paula Robinson stated that they are working on a co-op agreement with DNRC and the county partnering resources together and deciding how they will be utilized. She then said that anything that is in a overlapping boundary DNRC will be picking up if they are called out, and anything that is not overlapping will be the counties responsibility 100 percent.

Martha Smith explained the political steps required in the process of requesting emergency money.

Chairman Brenneman then added that the first of next week, consideration should be made in regards to looking at requesting emergency money from the Governor.

Mark Peck reported that the Forest Service and DNRC will be using severity money for the volunteer fire stations to standby, so that apparatus will be ready within each fire hall ready for initial attack.

Commissioner Lauman made a **motion** to adopt resolution #2087 to establish pay rates for payment of fire fighters and equipment contracted for fire fighting. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Mark Peck also updated the commission in regards to the local fires.

RESOLUTION NO. 2087

WHEREAS, Flathead County is a member of the Interagency Fire Committee, and works closely with the United States Forest service in planning for and in executing plans to control wildfires in Flathead County, Montana;

WHEREAS, Flathead County also coordinates the efforts of local fire agencies, including fire districts, fire departments and fire service areas in planning for and in executing plans to control wildfires in Flathead County, Montana;

WHEREAS, the United States Forest Service has adopted Handbooks dealing with interagency cooperative relations in business management for incidents involving wildfires in Flathead County, which include schedules for payments to fire fighters who are hired and owners of equipment that is contracted for by the Forest Service; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that certain of those schedules for payments for fire fighters and equipment should be adopted for services provided by local agencies.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the schedule of payments for fire fighters set forth in Chapter 10 – PERSONNEL of the Forest Service Handbook, National Headquarters (WO), Washington, D.C., page 10, and as classified on pages 12 – 20, a copy of which is attached hereto, is hereby adopted for use by Flathead County, Montana.

BE IT FURTHER RESOLVED that the schedule of payments for equipment set forth in Chapter 50 INTERAGENCY COOPERATIVE RELATIONS of the Forest Service Handbook, Northern Region (Region 1), Missoula, Montana, page 14, a copy of which is attached hereto, is hereby adopted for use by Flathead County, Montana.

Dated this 13th day of August, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

A copy of the above mentioned handbook is available for public view in the Clerk & Records Office at 800 South Main.

MONDAY, AUGUST 13, 2007
(Continued)

CONSIDERATION OF RELEASE OF COLLATERAL: SKY VIEW ESTATES #2

[10:32:40 AM](#)

Members present:
Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman
Others present:
Clerk Kile

Commissioner Lauman made a **motion** to release collateral for Sky View Estates #2. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: AMENDMENT TO COOPERATIVE AGREEMENT/ GOING TO THE SUN ROAD TRANSIT SYSTEM

[10:33:17 AM](#)

Members present:
Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman
Others present:
County Attorney Jonathan Smith, Clerk Kile

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

DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #08-07-5-21-008-0

[10:35:18 AM](#)

Members present:
Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman
Others present:
Clerk Kile

Commissioner Lauman made a **motion** to approve DPHHS Contract #08-07-5-21-008-0. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

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

TUESDAY, AUGUST 14, 2007

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

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

Bob Sandman with Montana Department of Natural Resources stated that he appreciated the cooperation from staff this fire season. He then said that the valley floor has been sectioned into five zones and that they are positioning resources and will be paying staff at every fire department to be on standby. He then added that they will dump water and manpower regardless of jurisdiction, and will be maximizing every resource they have. Sandman then said that they are looking for authorization from the Clerk and Recorder to sign the financial agreement document.

Bob Sandman then spoke about the financial commitment made by the County, Forest Service and DNRC in paying to have 12 engines and 4 water tenders at a paid status; pre-positioned around the valley. It was then stated that if they launch on a fire, that cost will roll over to the fire center, depending upon the jurisdiction. Sandman said that in the current business plan for the first 24 hours, he can roll on mutual aid, which means he will be paying the tab for it. If a fire is lost on initial attack, the county would be in a situation where they are fully committed, which means you would want to request county assistance, which would need to be done in writing.

Discussion was also held in regards to county assistance with law enforcement responsibilities.

Commissioner Hall made a **motion** to authorize Clerk & Recorder Paula Robinson to sign the severity resource project finance plan. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

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

TUESDAY, AUGUST 14, 2007
(Continued)

CONTINUATION OF DOCUMENT FOR SIGNATURE: QUITCLAIM DEED/ PORTION OF CHURCH DRIVE TO CITY OF KALISPELL

[9:37:44 AM](#)

Members present:

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

Others present:

County Attorney Peter Steele, Interim Road Department Superintendent Guy Foy, Clerk Kile

Discussion was held relative to a portion of Church Drive and an access issue.

The purpose of this QCD is to transfer any interest in the above described portion of Church Drive, which is no longer necessary for conduct of county business.

Commissioner Lauman made a **motion** to authorize the signature of the QCD on Church Drive. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

QUARTERLY JUVENILE DETENTION FACILITY TOUR

[9:43:59 AM](#)

Members present:

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

Others present:

Kathy Frame, Laurie Rebuck

PRELIMINARY PLAT: HUBBART HAVEN

[10:02:42 AM](#)

Members present:

Chairman Joseph D. Brenneman [11:35:39 AM](#) (excused himself due to a prior commitment)
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Planning & Zoning Director Jeff Harris, Planner Andrew Hagemeyer, Paul D. Wachholz, Debbie Shoemaker, Dawn Marquardt, Clerk Kile

Harris reviewed the application submitted by WWW Venture Group with technical assistance from Marquardt & Marquardt Surveying and Enviro-Tech Consulting, Inc. for preliminary plat approval of Hubbard Haven; a five lot single family minor subdivision on Hubbard Dam Road with lot sizes ranging from 9.52 to 20.62 acres on 73.80 acres. The application proposes individual wells and septic systems.

Harris then reviewed the Findings of Facts in accordance with statutory criteria and the Flathead County Subdivision Regulations and the Summary of Findings of Facts 1-8.

Due to non-compliance with the Flathead County Growth Policy, impacts to public health and safety, wildlife and wildlife habitat, the natural environment, and local services, and non-compliance with the Flathead County Subdivision Regulations, staff recommends that the County Commission adopt Staff Report FSR 07-11 as Findings of Fact and deny Hubbard Haven.

Discussion was then held relative to standard conditions 1-9 and project specific conditions 10-18.

Commissioner Hall said that he has concerns with the summary of findings that he can't go along with.

Dawn Marquardt said that she has concerns with findings with some of them not being true.

Discussion was then held relative to Finding #1 that states:

Lot #1 does not have the required 30 feet of access onto the primary access road.

Dawn Marquardt then said that a county road by definition is not a primary access road. Also stated was that goes along with the condition that requires paving, with the county road not being an access road you cannot ask them to pave it by definition.

Discussion then ensued relative to the road in regards to having 30 foot of access.

Dawn Marquardt then spoke about the variance for Lot 5 being split by an easement and the remainder also.

Commissioner Hall stated that he would like to amend staff finding #1 to state: Lot 1 does have the required 30 foot of access, if the unbuilt upon county right of way is used as the access. Condition will state that it will be built to county standards.

Commissioner Hall stated that he proposed to amend Findings #5 to state: The Commission has found that the remainder does meet the requirements.

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

TUESDAY, AUGUST 14, 2007
(Continued)

Discussion was held relative to problems with conditions, in which Paul D. Wachholz requested that Condition #10 be stricken.

Commissioner Hall stated that he proposed to remove Condition #10, in which Commissioner Lauman stated that he agreed.

Also discussed was paving part of Hubbart Dam Road; Condition #11.

Commissioner Hall stated that because of DEQ they are trying to take a firm stand that requires that every subdivision has a paved portion of county roads.

Chairman Brenneman then said that in the past, requiring a condition that the applicant does not agree to, has not been profitable that they would be better off in denying the application, when it affects public, safety and welfare.

Commissioner Hall stated that he is in favor of changing the condition, so that the applicant can either pave or contribute to a road fund.

Condition #11 will be changed to state: The applicant shall bring 250 feet of Hubbart Dam Road to paved county standards at the point of nearest paving, near its intersection with US Hwy 2. An engineer's certification of the road improvements shall be included with the application for final plat. The applicant shall have the option to pay in lieu of pavement the cost of 250 feet at the time of final plat.

Paul D. Wachholz then stated that he does not want to combine Lots 1 and 2 as required in Condition #12.

Commissioner Hall and Commissioner Lauman stated they were in favor of removing Condition #12.

Discussion was held relative to Condition #13A that states: There shall be no further subdivision of these lots. Condition will stay.

Discussion was held relative to Condition #13P that states: Livestock or domestic animals, such as pigs, sheep, goats, Llama, poultry, etc. are not allowed in this subdivision because they can attract bears, mountain lions, coyotes and wolves. Will change the wording from not allowed to shall be discouraged.

Discussion was held relative to Condition #13F in regards to fruit trees. It will also be changed to shall be discouraged.

Discussion was held relative to Condition #13Q in regards to solid waste hauling. It will be removed.

Discussion was held relative to Condition #17 and #18 that will be removed.

Discussion was held relative to Condition #7 in regards to electricity. A sentence will be added to Condition #7 that states: The applicant is not responsible to install electrical or telephone.

Chairman Brenneman excused himself due to a prior commitment.

Discussion was held relative to Condition #13M in regards to wire fencing. It was clarified that the existing fence will be grandfathered in.

Commissioner Lauman made a **motion** to approve Hubbart Haven with amended conditions. Commissioner Hall PT **seconded** the motion. **Aye** Hall and Lauman. Motion carried by quorum.

STANDARD CONDITIONS

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 3.9(I)(7), FCSR]
2. The applicant shall show proof of completed approach permit from the Flathead County Road Department, indicating all approaches have been built and received final inspection. [Section 3.8(A), FCSR]
3. The applicant shall comply with reasonable fire suppression and access requirements of the Flathead County Fire Services Area. A letter from the fire chief stating that an agreement has been made shall be submitted with the application for Final Plat. [Section 3.20, FCSR]
4. The developer shall provide written documentation from the appropriate USPS postmaster, indicating mail delivery requirements have been met. [Section 3.22, FCSR]
5. The developer shall contact the Superintendent of Schools and, if required, provide and improve a location for the safe loading and unloading of students.
6. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All addresses will be visible from the road, at the driveway entrance or on the house.
 - b. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
 - c. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.

TUESDAY, AUGUST 14, 2007
(Continued)

d. Waiver of Protest

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

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

7. All required improvements shall be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, shall be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR] The applicant is not responsible to install electrical or telephone.
8. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
9. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

PROJECT-SPECIFIC CONDITIONS

10. ~~The applicant shall aggregate Lots 3, 4, and 5. These lots shall be renumbered as Lot 2 on the face of the final plat.~~
11. The applicant shall bring 250 feet of Hubbart Dam Road to paved county standards at the point of nearest paving, near its intersection with US Hwy 2. An engineer's certification of the road improvements shall be included with the application for final plat. The applicant shall have the option to pay in lieu of pavement the cost of 250 feet at the time of final plat.
12. ~~The applicant shall aggregate the proposed Lots 1 and 2. These lots shall be renumbered as Lot 1 on the face of the final plat.~~
13. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. There shall be no further subdivision of these lots.
 - b. Only Class A or B fire rated roofing material are allowed.
 - c. Fire resistant construction of all buildings is encouraged.
 - d. Defensible Space Standards shall be incorporated around all primary structures; all landscaping shall incorporate *Firewise* principles along with fire resistant plants and materials. Defensible space standards will assist firefighters in the event of a wildfire situation where suppression resources might be limited.
 - e. Homeowners must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs, and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant nonpalatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Landscape plantings of certain species of native vegetation are less likely to suffer extensive feeding damage by deer.
 - f. Gardens, fruit trees, or orchards attract wildlife such as bear and deer. Nonnative fruit-bearing trees and shrubs shall be discouraged in this subdivision because they can regularly attract bears in the late summer/fall. Keep produce and any fruit, such as strawberries, picked and off the ground. Ripe or rotting fruit or vegetable material can attract bears, deer, skunks, and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller, or electric fences utilized, or gardens should not be allowed at all.
 - g. Garbage must be stored either in secure, bear-resistant containers or indoors (or both) to avoid attracting wildlife such as bears. If stored indoors, garbage cans may not be set out until the morning of garbage pickup (or until being transported to an authorized disposal site) and must be brought in no later than that same evening. If sites are occupied seasonally or if the occupants are to be away from the household for 7 days or more, garbage from the home, other buildings, or containers must be removed from the property prior to their departure.
 - h. Do not feed wildlife or offer supplements (such as salt or mineral blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that can lead to overuse of vegetation, disease transmission, and other adverse effects to wildlife (such as foundering of deer). Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer concentrations might attract mountain lions to the area.
 - i. Birdseed is an attractant to bears and deer. Use of bird feeders is not recommended from April 1 through November 30. If used, bird feeders must: a) be suspended a minimum of 10 feet above ground level (measured from bottom of catch plate), b) be at least 4 feet from any support poles or points, and c) be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds. Hummingbird feeders will follow the same criteria.
 - j. Pets must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not allowed to roam, as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals, and the owner may also be held accountable (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
 - k. Pet food must be stored indoors, in closed sheds, or in bear-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, etc. When feeding pets, do not leave food out overnight. Pets must be fed indoors or inside kennels so that wild animals do not learn to associate food with your home.

TUESDAY, AUGUST 14, 2007
(Continued)

- l. Barbecue grills must be stored indoors, and permanent outdoor barbecue grills shall not be allowed in this subdivision. Keep all portions of the barbecues routinely clean. Food spills and smells on and near the grill can attract bears and other wildlife.
 - m. Fencing of lot boundaries is discouraged. If used, rail or smooth wire fences will be erected that are no higher than 48" at the top rail/wire and no lower than 18" at the bottom rail/wire in order to facilitate wildlife movement and help avoid animals becoming ensnared and killed by the fence or injuring themselves when trying to jump the fence. It is understood that the existing fence is grand fathered.
 - n. Compost piles can attract bears and skunks and may not be used.
 - o. Beehives can attract bears in this area and are not allowed in this subdivision.
 - p. Livestock or domestic animals, such as pigs, sheep, goats, llama, poultry, etc. (including those kept as 4H projects), shall be discouraged in this subdivision because they can attract bears, mountain lions, coyotes, and wolves.
 - ~~q. All lots shall utilize contract haul of solid waste.~~
14. The applicant shall drill at least one test well to test groundwater availability. The test well shall meet the following requirements of DEQ: a single-family water system must provide a sustained yield of at least 10 gallons per minute over a one-hour period, six gallons per minute over a two-hour period, or four gallons per minute over a four-hour period. Proof of this capacity shall be provided to the Flathead County Planning & Zoning office prior to final plat.
15. All portions of the subdivision with slopes of 30% or more which abut a stream or intermittent stream bed shall be conserved via the placement of a conservation easement or deed restriction. The easement or restriction shall prohibit the construction of any dwellings, buildings or other structures, road work or major vegetative clearance. Proof of this restriction shall be provided to the Flathead County Planning & Zoning office prior to final plat.
16. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR] A Soil Disturbance and Weed Management Plan shall be provided with the application for final plat. The applicant shall also provide a letter from the County Weed Supervisor that the subdivision was inspected and implementation of the plan was adequate. The Weed Control Board may charge an initial fee for plan review and a per lot inspection fee.
17. ~~The applicant shall adjust the boundary line between Lot 5 (as proposed in this application) and the property to the south. This boundary line adjustment shall remove that portion of Lot 5 which lies to the east of Crossover Road. Proof of this boundary line adjustment shall be provided with the application for final plat.~~
18. ~~The remainder parcel shall be shown as Lot 3 on the face of the final plat. All information required for a preliminary plat application shall be provided regarding the remainder parcel. This parcel must be in conformance with all applicable regulations.~~
19. The applicant shall improve the extension of Moore Ranch Road at least 30 feet to the south as to assure lot 1 will have 30 feet of access to county right of way. The improvement shall meet county standards.

MONTHLY MEETING W/ MARK PECK, OES

This meeting was not held.

DOCUMENT FOR SIGNATURE: HEALTH PROMOTION CONTRACT-IMMANUEL LUTHERAN HOME/ AOA

[11:43:32 AM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Lauman made a **motion** to approve the Health Promotion Contract. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

1:15 p.m. 911 meeting @ Justice Center

4:00 p.m. Long Range Planning Task Force Affordable Housing Committee meeting @ Earl Bennett Bldg.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on August 15, 2007.

WEDNESDAY, AUGUST 15, 2007

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

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

12:00 p.m. DUI Task Force meeting @ The Summit

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on August 16, 2007.

THURSDAY, AUGUST 16, 2007

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

2:00 p.m. Health Board meeting @ Earl Bennett Bldg.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on August 17, 2007.

FRIDAY, AUGUST 17, 2007

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

9:30 a.m. Commissioner Lauman to Mental Health Council & CDC meetings in Missoula

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on August 20, 2007.