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## MONDAY, NOVEMBER 10, 2008

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

### **Chairman Hall opened public comment on matters within the Commissions' Jurisdiction.**

Frank Noble, 195 N. Riding Road stated he owns an eight acre parcel on Montford Road that he would like to be able to split into two lots. He then said the property is twice as long as it is wide and his original intention was to split the property in half and build a retirement home on the front 4 acres fronting Montford Road and give the back 4 acres to his children, or if they didn't want it, to eventually sell it to help pay for the front 4 acres. The property was purchased in 2005 from Mrs. Dempsey and when it was purchased the covenants were written to allow the property to be cut in half. Noble then stated he has spoken to two engineering firms who have given him the price of \$40,000 to \$50,000 to cut the property in half because it would be considered a major subdivision which he feels is going too far. He then asked that this be weighed into their considerations.

Lynn Stanley, read a letter on behalf of Mayre Flowers that pointed out all of the scientific information that has been received supports the proposed setback regulations. The letters asked that the following points be kept in mind.

The proposal for streamside setbacks are based on a considerable volume of science that has been submitted that represents significant compromise. This science demonstrates that water quality in Flathead Lake and many streams is declining. The information provided by the MDEQ shows that regulations administered by other states and local agencies under current state laws are either not designed to address this type of non-point pollution of that they are failing to do an adequate job. Economic studies also demonstrate increased property value to lands that are protected by streamside setbacks as opposed to those that are not.

Bill Myers, Bayside Park and Marina asked if any legal advice has been sought yet, in which he recommended counsel be sought by Allen McCormick or Bill VanKenagan. He then said it might make sense to gather a panel of lawyers and go over both sides of the issues. Myers stated he would be glad to let them use his property as a site to look at in terms of a potential test, as the lawyers he has spoken to clearly indicate that on their property that it would be a taking. He then asked if this is how Flathead County wants to spend the next five years in court suing each other, and asked if that would be a productive use of county resources. Myers then questioned if anyone had provided notice to each and every waterfront owner that would be affected by this. It was then asked if this uncompensated regulatory taking and restriction of property and property rights is really a Montana and Flathead Valley tradition. Even if the lawyers say it is legal, is this right by Montana values. Myers stated that he doesn't feel he should have to get on his knees and beg for a variance and said certainly this setback proposal without any suggestion or compensation for lost value of property is not in keeping with the compensation that took place during the acquisition of the wild and scenic Flathead River corridors and also flies in the face of conservation easement compensation. He then asked is this setback proposal really about protecting water or is it about stopping growth; more than a few people testified in front of the planning board hearings that they didn't like floating down a river and coming upon a house in a natural setting. Myers then asked if water protection is a cover for a different agenda and why the exemption for property serviced by sewer systems was deleted from the proposal; if we are trying to protect streams and rivers from human pollution would we not want to encourage sewer hook-up. Myers then questions the tablets out in the front of the Courthouse that refer to the "10 Commandments" – Thou shalt not covet thy neighbor's property.

George Culpepper, Northwest Montana Association of Realtors said he wanted to correct the record in that they are not the Flathead Association of Realtors. He then added their territory covers all of Flathead and Lake County and portions of Sanders and Lincoln County and they monitor everything the government is doing. He then spoke about their recommended proposal for 50 foot setbacks which they believe are needed, because that does not take away the entire property owner's rights. He then stated a 250 foot setback and then a 100 foot buffer equals 350 feet, which is taking away someone's private property rights which their members protect. He further said it should be up to the private property owner as to what they should or should not do; allow that private property owner to make the choice. Culpepper then spoke about the scientific studies from US Dept of Wildlife and Mt. Fish & Wildlife and again said I didn't hear where there was any supporting evidence from the US Army Corp of Engineers. Where is the evidence? He then said their association works very hard to create housing affordability in the valley and when you take away someone's value of their property that naturally it is going to hurt the economy of the local governments. He then asked that the setbacks be reconsidered and done right.

Carryn Mieske, Flathead Basin Commission stated they are dealing with complicated issues. She then said DEQ is under a court order mandate to figure out all the different loads that are coming into the lake, which is not a simple process. What they do know is that there are multiple sources of pollution going into Flathead Lake which is an impaired water body on the 303DL that needs dealt with. She further stated DEQ has been clear that the sources of pollution are from a wide range of things including sewer treatment plants as well as timber industries. Of the multiple sources coming into the lake residential development is one that often has different criteria and setback than what would be needed for timber harvest. For each different use you have different requirements, setbacks and best management practices that are needed. Mieske closed with saying the Flathead Basin Commission asked the representative from the Tahoe Regional Planning Association to speak to them about a year ago and one of the interesting examples they found is that simply sewerage around the lake was not sufficient; setbacks are one piece of a whole tool box that you can actually say will assist.

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

MONDAY, NOVEMBER 10, 2008  
(Continued)

**MONTHLY MEETING W/ JAY SCOTT, FAIRGROUNDS**

[9:08:54 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Fair Director Jay Scott, Clerk Kile

Scott report the Halloween Party held at the Fair Grounds was a great success with approximately 2,200 attending. He then spoke about air movement problems in the Expo Building and noted money is being donated to install fans. Discussion was then held relative to entertainment for the following year.

**MONTHLY MEETING W/ RAEANN CAMPBELL, HUMAN RESOURCE OFFICE**

[9:23:53 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, HR Director Raeann Campbell, Clerk Kile

Campbell presented the personnel transaction report for the month of October, 2008. She then reported work comp expenses are significantly under where they have been for the past two years, with 26 recordable injuries this year. It was noted they will continue to provide training on accident investigation and timely reporting. Campbell further reported negotiations are continuing with Solid Waste and the Road and Bridge Department.

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

Discussion was held relative to a new job description for the Emergency Services Director and the salary that would be considered.

**TAKE ACTION: SUBDIVISION NO. 264**

[9:43:29 AM](#)

Members present:

Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman PT

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Lauman PT read into the record that Subdivision No. 264 is now a dead file and will not go to final plat.

**QUARTERLY JUVENILE DETENTION FACILITY TOUR**

[9:43:53 AM](#)

Members present:

Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman PT

Members absent:

Chairman Gary D. Hall

**CONSIDERATION OF ADOPTION OF RESOLUTION: SUBDIVISION REGULATION AMENDMENTS (TILL NOON)**

[10:00:55 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Deputy County Attorney Peter Steele, Deputy County Attorney Tara Fugina, Wade Fredenberg, Mark Deleray, Russ Crowder, Jim Sappington, Roy Hutchen, Robin Steinkraus, Frank Noble, Ben Cavin, Richard Siderius, George Culpepper Jr., Bill Myers, Paul McKenzie, Charles Lapp, Gary Krueger, Clarice Ryan, Jim Clark, Ardis Larsen, Shelby Nash-Hunter, Heidi Desen, Linda Christensen, Don Hauth, Richard Kuhl, Clerk Kile

Chairman Hall explained that the issues before them today on the proposed regulations would be gone through page by page for consideration.

Commissioner Lauman asked that the comments submitted by Jeff Larsen in regards to sufficiency review and following the law be addressed by Peter Steele.

**MONDAY, NOVEMBER 10, 2008**  
**(Continued)**

Peter Steele explained that 76-3-511 is the regulation that says: Local regulations are no more stringent than state regulations or guidelines. The intent of the statute was to cover sanitary facilities. 76-3-511 refers back to 76-3-501 and also refers to 76-3-504 (1) f (3) which the legislature didn't get right, and it should have been (1) e (3). These regulations were changed so often that it has to do with water sewage/ solid waste disposal regulations. The reference to 76-3-501 and 76-3-511 doesn't just refer to the regulations of sanitary facilities, although if you look at 501 it refers to 511. After looking at the legislative history 511 says the subdivision regulations can't be more stringent than state regulations, so there has to be a state regulation that has to be more stringent. In the process of going through the whole subdivision regulations they were looking at this the whole way and were talking to Myra Schultz in Missoula who was part of the legislative process.

Commissioner Lauman asked if he felt the legislature would address subdivision regulations in correcting some of these situations created.

Peter Steele said that he has spoken to Myra Schultz who is involved in the legislative process and is working as a consultant for MACo who told him that it would go before the legislature to be cleaned up.

Commissioner Brenneman asked if it would be accurate to say that under the subdivision platting act that counties are expected to provide guidelines for certain analysis having to do with public safety and health. After recent court cases where Ted Lympus has told them that you can't just say don't worry DEQ is taking care of it; that as a governing body they are expected to apply reasonable analysis of how this is going to affect the communities health, safety and welfare.

Peter Steele replied with that is the foundation of the subdivisions regulations; to look out for the health, safety and welfare of citizens.

Commissioner Brenneman said his review of statute makes it very clear that there was some confusion in what they were trying to say, but there is ample indication that the intention is that the governing body in each county is expected to develop some rules whereby we can defend that we are taking reasonable actions to protect health, safety and welfare.

Commissioner Lauman said that as they go through and make corrections that at the end of the legislature they may be going back to some of the issues and re-adjusting to comply.

Harris noted that so far there have been more than 50 bill drafts regarding planning issues presented to the legislature.

The following changes were made by the commission:

Page 4-4 4.1.1 Wording will be changed to state:

The subdivider is discouraged from engaging in construction of improvements prior to approval of the preliminary plat. On-site improvements shall not be considered in the decision to approve conditionally approve or deny the preliminary plat and may be grounds for denial of a proposed subdivision.

All of (a) will be taken out.

Page 4-11 4.2.13 Wording will be changed to state:

(a) At the end of this period the Commission may at the request of the subdivider, extend preliminary plat approval for a period not to exceed one year. The subdivider must give written notice at least 30 working days prior to the end of the three year period.

Page 4-18 vi Wording will be changed to state:

If during application review the preliminary plat or supporting information is found to be in violation of these regulations the application will be considered insufficient. Within 15 working days the Planning and Zoning Office will notify the applicant that the application is determined to be insufficient. The original 60 working day review period shall be suspended and resume at the time the deficiency is corrected and found to be sufficient.

Page 4-20 a (ii) Wording will be changed to state:

If the planning director determines the changes are material the subdivider may schedule a new pre-application meeting and submit a new application and fees. The original application and fees shall not be refunded or transferred to the new application.

Page 4-12 4.2.13 Wording will be changed to state:

Within 15 working days of receiving the amended application or preliminary plat the planning director may determine whether the changes to the subdivision application or preliminary plat or material would create additional impacts which the application does not address.

Page 4-21 d (ii) Wording will be changed to state:

For all major subdivisions the first phase final subdivision plat must be approved and filed within three years of preliminary phased plat approval. On final plat approval of the first phase, final plat for each consecutive phase must be filed within three years of the previous final plat approval. Failure to meet this time frame will cause the remainder of the preliminary plat to become void and no additional final phased plats shall be accepted. A one year extension for a phased final plat may be requested by the subdivider.

**MONDAY, NOVEMBER 10, 2008**  
(Continued)

Page 4-24 a (ii) Wording will be changed to state:

If the planning director determines the changes are material, the subdivider shall schedule a new pre-application meeting and submit a new application and fees. The original application fees shall not be refunded or transferred to the new application.

Page 4-27 a Changed back to 30 days:

The Commission may at the request of the subdivider extend its approval for a period of one years. The subdivider must give written notice to the Planning & Zoning Office requesting an extension at least 30 working days prior to the end of the three year period.

Page 4-39 g Will be taken out

Page 4-39 h Wording will be changed to state:

When only a portion of a parcel or tract of land under a common ownership is to be subdivided the subdivider may be required to provide a plan of development showing in a general fashion the subdivider may be required to provide a plan of development showing in a general fashion proposed roadways, residential lot locations and densities and other parks and common areas.

General discussion was held relative to floodplains, floodways, flood insurance and FEMA.

Page 4-48 4.7.12 Wording will be changed to state:

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

Page 4-48 d Wording will be changed to state:

In areas where seasonally high ground water is within 8 feet of the surface lots shall be an average of 1-5 acres in the area of high ground water.

Commissioner Brenneman stated this contradicted the growth policy and was opposed to changing the language.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 11, 2008.

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**TUESDAY, NOVEMBER 11, 2008**

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

**COUNTY OFFICES CLOSED – VETERANS DAY**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 12, 2008.

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**WEDNESDAY, NOVEMBER 12, 2008**

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

- 9:00 a.m. Canvass General Election**
- 9:00 a.m. Commissioner Brenneman: 911 Administrative Board meeting @ Justice Center**
- 10:00 a.m. Commissioner Brenneman: State Emergency Response Commission conference call**
- 12:00 p.m. Commissioner Brenneman: Chamber meeting**
- 1:00 p.m. Commissioner Lauman: Mental Health Council meeting @ The Summit**
- 1:15 p.m. 911 meeting @ Justice Center**
- 6:00 p.m. Commissioner Lauman: McMannamy Draw Road Project @ West Valley School**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 13, 2008.

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## THURSDAY, NOVEMBER 13, 2008

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

### **Chairman Hall opened public comment on matters within the Commissions' Jurisdiction.**

John Donoghue, 590 Yoeman Hall Road read the following letter in regards to Sweetgrass Farms Development.

We have had the opportunity to address this issue with you and members of planning staff many times over the past two years, and each time we have brought forth a message, that has appealed to the appropriate parties to approve the development plan as presented in order that Flathead County would gain a superior development and utilization of real estate property that would set a standard for residential developments for years to come.

Proper land use planning throughout our county demands the utmost in development expertise, sound economic considerations, growth projections, available and projected infrastructure and consideration of individual property rights. Recognition of and adherence to these principles has brought us to where we are this day.

The property owners, investors, neighbors, citizens and future residents of Flathead County have placed their faith in you and our planning officials to succeed in bringing to completion a development that represents hundreds of hours of due diligence efforts, meetings with responsible citizens, governmental officials, financiers, engineers and designers in order to provide a development that meets and yes; even surpasses the most stringent requirements that may prevail over time. We as neighbors feel they have succeeded. They have brought forth a development that provides superlative aesthetic results. Their landscaping berms, planting species and density, architectural design of structures, resident amenities and the utilization and preservation of the unique and existing ecosystem will be a tribute for many years to come for all that have provided a positive effort to the completion of this development.

We recognize the magnitude of your responsibilities in dealing with these issues and yet we feel it is only fitting and proper that today we request your formal stamp of approval on this project at the earliest date. Thank you for your consideration.

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

### **MONTHLY MEETING W/ JEFF HARRIS, PLANNING & ZONING OFFICE**

[8:59:33 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman Seated [9:10:49 AM](#)

Others present:

Assistant Mike Pence, Planning & Zoning Director Jeff Harris, Office Administrator Mary Sevier, Clerk Kile

Discussion was held relative to upcoming land use board appointments that will be made the first week of December with board training the following week. Discussion also included scheduling a joint Planning Board and Board of Adjustment meeting with the commission sometime in January.

Harris then reported the Whitefish Lakeshore Protection Committee is still working on their regulations and that the Planning Office did not advertise positions for the Whitefish City County Planning Board. He then noted that due to lack of work a data entry position will be eliminated in the office. He then said they are looking at a set of state wide model floodplain regulations that were issued by DNRC in which there is concern with contradictions with FEMA.

### **PUBLIC HEARING: ANNEXATION TO SOMERS FIRE DISTRICT/ WETZEL**

[9:30:41 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Rick Walker, Clerk Kile

**Chairman Hall opened the public hearing to anyone wishing to speak in favor or opposition of annexation of property into the Somers Fire District.**

Rick Walker, 449 Addison Square said he had no comment on this specific annexation. He then stated that he falls on both sides of the river and is being taxed by two different fire districts and asked how his issue could be addressed when he basically would not be getting service from one fire district.

Commissioner Brenneman advised him to petition to be annexed into the fire district on the side of the river where his home is.

Smith explained that the GIS Department is trying to get all the situations in the county straightened out where property owners are in two different fire districts.

Rick Walker explained that when the Flathead River divides your property that it creates a geographical impossibility to move from one side of the river to the other.

**THURSDAY, NOVEMBER 13, 2008**  
**(Continued)**

Commissioner Brenneman noted that it seems logical to him to be in the district where your home is located and also stated he would bring the situation before the Fire Chief's during their next meeting.

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

Commissioner Lauman made a **motion** to adopt Resolution 2172 to annex property into the Somers Fire District. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 2172

WHEREAS, the Board of Commissioners of Flathead County, Montana, received a petition, pursuant to Section 7-33-2126, M.C.A., requesting that certain property be allowed to withdraw from the South Kalispell Rural Fire District and be annexed to the Somers Rural Fire District;

WHEREAS, the territory to be withdrawn and annexed, described as Parcel 1 of Certificate of Survey 11794; containing .013 acres of land more or less and located in the NE ¼ of the SW ¼, and in the SE ¼ of the SW ¼, and in the SE ¼ of the NW ¼ of Section 34, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana;

WHEREAS, a Notice of Public Hearing was published on November 1 and November 8, 2008, giving notice that the Commissioners would hear protests to the requested withdrawal and annexation;

WHEREAS, the Board of Commissioners conducted the public hearing as noticed and received input from the public on the requested withdrawal and annexation; and;

WHEREAS, the Board of Commissioners has determined that the requested withdrawal and annexation would result in a more advantageous proximity to the firefighting facilities of the Somers Rural Fire District for the annexed property and more advantageous communications with the firefighting facilities of the Somers Rural Fire District for the annexed property.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the petition is granted and the property described as Parcel 1 of Certificate of Survey 11794; containing .013 acres of land more or less and located in the NE ¼ of the SW ¼, and in the SE ¼ of the SW ¼, and in the SE ¼ of the NW ¼ of Section 34, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana, is hereby withdrawn from the South Kalispell Rural Fire District and annexed to the Somers Rural Fire District.

Dated this 13<sup>th</sup> day of November, 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

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

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Diana Kile, Deputy

**DOCUMENT FOR SIGNATURE: LEASE AGREEMENT FOR BIG SKY TRANSPORTATION**

[9:42:15 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Eagle Transit Director David Polansky, Clerk Kile

Polansky reported the contracts are for buses that are being leased by Big Sky Transportation.

Chairman Hall made a **motion** to approve the lease agreement with Big Sky Transportation and authorized Commissioner Brenneman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**BUDGET AMENDMENT: SHERIFF'S OFFICE AND COUNTY ATTORNEY'S**

[9:45:18 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Sheriff Mike Meehan, Office Administrator Karen Moore, Finance Comptroller Joe Garza, Clerk Kile

Karen Moore explained the transfer of funds is to purchase an HIDTA vehicle.

Commissioner Brenneman made a **motion** to approve Budget Amendment Resolution 2173. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**THURSDAY, NOVEMBER 13, 2008**  
(Continued)

BUDGET AMENDMENT RESOLUTION NO. 2173

**WHEREAS**, the Board of Commissioners has determined, and various department heads have requested and verified, that budget revisions between line items for Fiscal Year 2008-2009, are required, and;

**WHEREAS**, Section 7-6-4031, M.C.A. and Budget Resolution No. 1689, allow budget transfers to be made between items in the same fund.

**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 2007-2008; 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 13<sup>th</sup> day of November 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

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

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Diana Kile, Deputy

DATE OF ISSUE: <u>DATE OF RECORD:</u>			<i>BUDGET ENTRY</i>		VOUCHER NO.: Entered by:	
<b>RESOLUTION #2173</b>						
Fund	Dept	ACTIVITY	OBJECT	ACCOUNT DESC	DEBIT	CREDIT
7057	0209	411100	900	Capital Outlay		6,414.00
7057		242000			6,414.00	
2922	0209	382010		Sale of General Fixed Asset	6,414.00	
2922	0209	331019		High Intensity Drug Trafficking	26,415.00	
2922		172000				32,829.00
2922	0209	420142	900	Capital Outlay		10,414.00
2922		242000			10,414.00	
<b>Explanation</b>					49,657.00	49,657.00
Increase Capital Outlay for 7057 to purchase HIDTA vehicle Increase Revenue for vehicle being purchased  The increase in the HIDTA Revenue is a result of the increased expenditures						

Garza reported the County Attorney's agreed to support the children's advocacy center for \$4,000.00.

Commissioner Lauman made a **motion** to approve Budget Amendment Resolution 2174 for the County Attorney's Office. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**THURSDAY, NOVEMBER 13, 2008**  
(Continued)

BUDGET AMENDMENT RESOLUTION NO. 2174

**WHEREAS**, the Board of Commissioners has determined, and various department heads have requested and verified, that budget revisions between line items for Fiscal Year 2008-2009, are required, and;

**WHEREAS**, Section 7-6-4031, M.C.A. and Budget Resolution No. 1689, allow budget transfers to be made between items in the same fund.

**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 2007-2008; 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 13<sup>th</sup> day of November 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

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

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Diana Kile, Deputy

DATE OF ISSUE:		11/6/2008	BUDGET ENTRY		VOUCHER NO.:	
DATE OF RECORD:					Entered by:	
RESOLUTION #2174						
Fund	Dept	ACTIVITY	OBJECT	ACCOUNT DESCRIPTION	DEBIT	CREDIT
1000	0210	521000	820	Transfer Out		4,000.00
1000		242000		Expenditures	4,000.00	
<b>Explanation</b>					4,000.00	4,000.00
Establish budget line item for \$4,000 transfer to CAC						

**AWARD BID: CARS/ SHERIFF'S OFFICE**

[9:52:09 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Sheriff Mike Meehan, Dave Leib, Office Administrator Karen Moore, Deputy County Attorney Jonathan Smith, Finance Comptroller Joe Garza, Clerk Kile

Commissioner Lauman made a **motion** to award the sedan bid to Illinois Municipal for 2008 Impala's and to hold off on purchasing SUV's. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: COPS TECHNOLOGY PROGRAM/ SHERIFF'S OFFICE**

[9:58:58 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Sheriff Mike Meehan, Clerk Kile

Commissioner Brenneman made a **motion** to authorize the chairman to sign the COPS technology grant document. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.



THURSDAY, NOVEMBER 13, 2008  
(Continued)

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: SHUPERT-THORNBERRY ZONE CHANGE/ BLANCHARD LAKE ZONING DISTRICT**

[10:00:27 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Clerk Kile

Commissioner Brenneman made a **motion** to adopt final Resolution 966U for the Shupert/ Thornberry Zone Change. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 966 U

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 30<sup>th</sup> day of September, 2008, concerning a proposal to change the zoning designation in portions of the Blanchard Lake Zoning District from AG-40 (Agricultural) to SAG-10 (Suburban Agricultural);

WHEREAS, the Board of Commissioners did hear public comment on the proposed zoning changes at said hearing;

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed changes in the Blanchard Lake Zoning District;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 966 T) on September 30, 2008, to change the zoning designation in portions of the Blanchard Lake Zoning District from AG-40 (Agricultural) to SAG-10 (Suburban Agricultural); and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on October 4 and October 11, 2008, and the Board of Commissioners did not receive written protests from forty percent (40%) of the freeholders within the Blanchard Lake Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Blanchard Lake Zoning District to change the zoning designation for the areas described on Exhibit A attached hereto, from AG-40 (Agricultural) to SAG-10 (Suburban Agricultural), as those terms are used and defined in the Flathead County Zoning Regulations.

DATED this 13<sup>th</sup> day of November, 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

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

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Diana Kile, Deputy

**MONTHLY MEETING W/ JOE GARZA, FINANCE DEPT.**

[10:00:19 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Finance Comptroller Joe Garza, Clerk Kile

Garza reported he will be scheduling an informational meeting with Scott Williams with the Department of Revenue to have him present an overview of how evaluations on property are assessed. He then stated they have received no feedback yet on the FY07 audit and that the FY08 audit is scheduled to begin the last week of November. Also noted was implementation of CSA software is scheduled for the first of March.

THURSDAY, NOVEMBER 13, 2008  
(Continued)

**FINAL PLAT: HOLT FIELDS SUBDIVISION**

[10:20:43 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Planner Bailey Iott, Clerk Kile

Iott entered into record Final Plat FFP 08-50; Holt Fields Subdivision, a subdivision creating 12 residential lots located east of Kalispell off Holt Stage Road. Preliminary plat approval was granted on January 10, 2006, subject to 19 conditions. All conditions have been met and staff recommends approval.

Commissioner Brenneman made a **motion** to approve final plat of Holt Fields Subdivision. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**TAKE ACTION: HASKILL FOOTHILLS SUBDIVISION**

[10:30:48 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk Kile

Chairman Hall read into the record Haskill Foothills Subdivision is a dead file and will not go to final plat.

**DOCUMENT FOR SIGNATURE: KF&G LEASE ADDENDUM/ SYSCO**

[10:31:17 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Clerk Kile

Commissioner Brenneman made a **motion** to approve the document for signature to amend the lease agreement and authorized the chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: GRANT DEED FOR REDEEMED TAX DEED PROPERTY/ JOHN WIERSCHEM**

[10:32:36 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Clerk Kile

Smith noted this is a cabin on Forest Service land where the taxes were not paid for six years and the county took the property on a tax deed.

Commissioner Brenneman made a **motion** to approve the document for signature and authorized the chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: ENGAGEMENT LETTER FOR APPRAISER ELLIE CLARK RE: STILLWATER SCHOOL**

[10:33:23 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Clerk Kile

Smith reported a commercial appraisal on Stillwater School will be done for \$4,000.00 by Ellie Clark which will be paid for by the Weed & Park Board.

Commissioner Lauman made a **motion** to authorize the chairman to sign the engagement letter. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

THURSDAY, NOVEMBER 13, 2008  
(Continued)

**CONSIDERATION OF ADOPTION OF RESOLUTION: CORRECTION OF LEGAL DESCRIPTION/ DENGAR ZONE CHANGE**

[10:35:31 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Clerk Kile

Smith reported the legal description on the DenGar Zone Change had the wrong tract wrong on it. The maps show the correct parcel and everyone knew what the intention was, but the wrong tract number was used.

Commissioner Brenneman made a **motion** to adopt Resolution 966V to correct the legal description on the DenGar Zone Change. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 966V

WHEREAS, the Board of Commissioners of Flathead County, Montana, considered a proposal to change the zoning designation in portions of the Blanchard Lake and Highway 93 North Zoning Districts from AG-20 (Agricultural) to B-2 (General Business);

WHEREAS, the Board of Commissioners, after following the procedures set forth in Section 76-2-205, M.C.A., adopted a final resolution (Resolution No. 966 S, dated May 16, 2008) changing the zoning designation in portions of the Blanchard Lake and Highway 93 North Zoning Districts from AG-20 (Agricultural) to B-2 (General Business);

WHEREAS, in the adoption of that Resolution, the Exhibit attached thereto contained an incorrect description of one of the parcels upon which the Board of Commissioners intended to change the zoning designation; and

WHEREAS, the Board of Commissioners wishes to correct that legal description *nunc pro tunc* in order that the records of the County show that the zoning designation is applied to the correct property.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts this Resolution amending Resolution No. 966 S to set forth the proper tracts on which the zoning designation was changed from AG-20 (Agricultural) to B-2 (General Business), as those terms are used and defined in the Flathead County Zoning Regulations, as follows:

The boundaries of the property for which the zoning designations were changed are i) property described as Tract 2FB in Section 25 (shown as Parcel 2 of Certificate of Survey No. 4456) and ii) property described as Tract 3DBB in Section 24 (shown as Tract 1 of Certificate of Survey No. 18192), both in Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

DATED this 13<sup>th</sup> day of November, 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

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

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Deputy Clerk

**CONSIDERATION OF ADOPTION OF RESOLUTION: CORRECTION OF LEGAL DESCRIPTION/ CUFFE ZONE CHANGE**

[10:37:27 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Clerk Kile

Commissioner Lauman made a **motion** to adopt Resolution 1201H to correct the legal description on the Cuffe Zone Change. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 1201H

WHEREAS, the Board of Commissioners of Flathead County, Montana, considered a proposal to change the zoning designation in a portion of the Southeast Rural Whitefish Zoning District from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural);

WHEREAS, the Board of Commissioners, after following the procedures set forth in Section 76-2-205, M.C.A., adopted a final resolution (Resolution No. 1201 G, dated October 23, 2008) changing the zoning designation in a portion of the Southeast Rural Whitefish Zoning District from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural);

**THURSDAY, NOVEMBER 13, 2008**  
**(Continued)**

WHEREAS, in the adoption of that Resolution, an incorrect description of the parcel upon which the Board of Commissioners intended to change the zoning designation was used; and

WHEREAS, the Board of Commissioners wishes to correct that legal description *nunc pro tunc* in order that the records of the County show that the zoning designation is applied to the correct property.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts this Resolution amending Resolution No. 1201 G to set forth the proper tract on which the zoning designation was changed from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural), as those terms are used and defined in the Flathead County Zoning Regulations, as follows:

The boundaries of the property for which the zoning designation was changed are the boundaries of Tract 3A located in the Northeast Quarter of the Southeast Quarter (NE ¼ SE ¼ ) of Section 10, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana.

DATED this 13<sup>th</sup> day of November, 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

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

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Deputy Clerk

**CONSIDERATION OF HR TRANSMITTAL: DISPATCHER/ SHERIFF'S OFFICE**

[10:37:58 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, HR Director Raeann Campbell, Clerk Kile

Campbell reported the dispatcher job description has been re-written to more accurately reflect the responsibilities.

Commissioner Brenneman made a **motion** to approve the HR Transmittal form for a Dispatcher at the Sheriff's Office and authorized the chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**COS REVIEW: STEVENSON**

[11:01:44 AM](#)

Members present:

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

Others present:

Planner Dianna Broadie, Bryan Block, Randy Moore, Rich Stevenson, Clerk Kile

Broadie reviewed the proposal to split a 3.307 acre parcel into the following:

Tract 1	1.300 acres to be retained by Richard Stevenson
Tract 2	2.007 acres to be transferred to Clarita Stevenson, Wife

Rich Stevenson stated the intent is to leave the property in the family for estate planning purposes and each child would receive a lot.

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

**MEETING W/ LONG ENGINEERING RE: CHANGES TO SWEETGRASS RANCH CONDITIONS**

[11:15:15 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Assistant Planning & Zoning Director B J Grieve, Planner Allison Mouch, Brian Long, Clerk Kile

Mouch reported Brian Long came before them to ask for an amendment to the proposed trails in Sweetgrass Ranch. She noted the lots have been re-configured to keep the trails off of private property.

**THURSDAY, NOVEMBER 13, 2008**  
(Continued)

Commissioner Brenneman made a **motion** to approve the changes as delineated. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

- 12:00 p.m. Commissioner Hall: Montana West Economic Development meeting**
- 12:00 p.m. Commissioner Brenneman: Bigfork Steering Committee Public Forum @ Bethany Lutheran**
- 2:00 p.m. Commissioner Brenneman: Health Board meeting @ Earl Bennett Bldg.**
- 2:00 p.m. Commissioner Lauman: AOA Board meeting @ Kalispell Sr. Center**
- 4:00 p.m. Commissioner Hall: Long Range Planning Task Force meeting**
- 4:00 p.m. Commissioner Brenneman: CDC Retreat @ Three Rivers Bank**
- 7:00 p.m. Road Advisory Committee meeting @ Solid Waste District Conference Room**
- 7:00 p.m. Fair Board meeting @ Fairgrounds Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 14, 2008.

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**FRIDAY, NOVEMBER 14, 2008**

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

**NO MEETINGS SCHEDULED**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 17, 2008.

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