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## MONDAY, JUNE 22, 2009

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

### 10:00 a.m. Commissioner Brenneman: RC&D meeting @ St. Luke's Hospital, Ronan

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 23, 2009.

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## TUESDAY, JUNE 23, 2009

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

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

Joe Orr, 5655 Hwy 93 South asked for support from the commission as leaders of Flathead County to make sure the public input process is allowed to continue in an atmosphere free of fear and intimidation. He then said by now I am sure you have seen the tape of the meeting held at the Somers Middle School. Orr said he was not at the meeting but was embarrassed by what happened as a resident of the Somers area as that is not what they are about there. He went on to suggest that the commission publically issue a strong statement that intimidation and uncivil behavior will not be allowed to disrupt the public input process in Flathead County. The concept of neighborhood planning is addressed in Montana Law, Flathead County Regulations and the new Growth Policy and public input is guaranteed in the process, regardless of whether you or ultimately for or against any land use plan. He further suggested that the commission should immediately and publically clarify the role of the Flathead County Planning and Zoning Office in regards to neighborhood planning and let it be known that the commission will not tolerate intimidation of its employees at meetings where the Planning Office is fulfilling that role. Orr stated that he was not there to ask for their support on any specific neighborhood plan; only to ask for their leadership in protecting the public input process required by law.

Doug Scarff, 202 Lone Pine Road urged the commission to make the right appointments to the Smith Valley Board of Trustees'.

Jeanette Feller, 120 Good Country Road spoke in support of appointing Doug Scarff to the Smith Valley Board of Trustees as well as either Tracie Beliz, Janice Seaman or Tracy Patton. She then explained she has concerns in regards to the amount of meetings that have been attended by board members over the past fiscal year and the lack of knowledge any of them have in maintaining books for the district.

Commissioner Brenneman explained applications will be accepted for appointment to Smith Valley Board of Trustees until July 3, 2009 and appointments will be made on July 9, 2009.

Bill Myers explained when they tried to bend the culvert around the dock at Bay Side Park and Marina they found that the pipe was indeed rotten and rusted and had pre-drilled holes in it facing down that was letting water pour out the bottom. He then explained the work that he did on his own in order to make improvements to make it look nice down there. Myers then spoke as a citizen personally and expressed his disappointed with Commissioner Lauman and Dupont in regards to their vote on the Bigfork Neighborhood Plan. He further said they ran on private property rights as part of their platform in their campaign pledges and was personally disappointed with their vote. Myers said people like him will now have to deal with it as it will effectively make anything in Bigfork a PUD, and he will now have to deal with BLUAC who likes to control everything that goes on.

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

### **DOCUMENT FOR SIGNATURE: DEQ 319 CONTRACT/ BIGFORK STORMWATER PROJECT**

[10:01:45 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Grant Writer Debbie Pierson, Clerk Kile

Pierson stated a signature is required for the next cycle of contracts with DEQ 319 for \$125,000.000 with the majority of it going towards work that will be done at the school.

Commissioner Dupont made a **motion** to approve the Bigfork Stormwater Project contract and authorized Commissioner Brenneman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

TUESDAY, JUNE 23, 2009  
(Continued)

**DOCUMENT FOR SIGNATURE: DEQ 319 CONTRACT/ FLATHEAD COUNTY RIVER COMMISSION**

[10:04:26 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Grant Writer Debbie Pierson, Clerk Kile

Commissioner Brenneman made a **motion** to approve the DEQ 319 contract for Flathead County River Commission and authorized Commissioner Brenneman to sign. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ANNEXATION TO SMITH VALLEY FIRE DEPT. / MC GRATH**

[10:07:46 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

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

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorized the chairman to sign. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Section 7-33-2126(3), M.C.A., that it will hold a public hearing to consider a petition to withdraw territory from the South Kalispell Fire District and annex it to the Smith Valley Rural Fire District, said territory to be withdrawn and annexed, described on the attached Exhibit A, is located in Section 6, Township 27 North, Range 21 West, Flathead County, Montana also known as 695 Foy's Canyon Rd, Kalispell, MT.

The Board of Commissioners has received a petition in writing by the owners of 100% of the privately owned lands of the area to be withdrawn and annexed, who constitute a majority of the taxpaying freeholders within that area, according to the last-completed assessment roll, asking that such area be transferred to and included in the Smith Valley Rural Fire District.

The public hearing will be held on the 9<sup>th</sup> day of **July, 2009**, at **10:45 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed transfer and will consider whether protests by owners of 40% or more of the real property in either district and owners of property representing 40% or more of the taxable value in either district, were received.

DATED this 23<sup>rd</sup> day of June, 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:

Paula Robinson, Clerk

By/s/Diana Kile

Diana Kile, Deputy

Publish on June 27 and July 4, 2009.

EXHIBIT "A"

THE SOUTHEASTERLY PORTION OF THE FOLLOWING:

That portion of the North Half, Section 6, Township 27 North, Range 21 West, P.M., M., Flathead County, Montana, described as follows:

Beginning at the Southwest corner of Parcel 2 per Certificate of Survey No. 3915, which point is on the Easterly line of a County Road and is on a 1570.00 foot radius curve concave Northeasterly having a radial bearing of North 45°47'48" East; thence along the West line of Parcel 2, also being the Easterly line of the County Road Northwesterly along the curve thru a central angle of 11°07'51" a distance of 305.00 feet to a point; thence North 61°35'50" East a distance of 543.86 feet to a point; thence South 21°10'12" East a distance of 30.90 feet to a point; thence South 33°40'48" East a distance of 289.93 feet to a point; thence South 43°15'00" East a distance of 270.00 feet to a point; thence South 39°10'06" East a distance of 36.95 feet to the South line of said Parcel 2; thence along the South line South 89°54'00" West a distance of 668.53 feet to the point of the beginning.

Show as Parcel 2 of Certificate of Survey No. 4963.

Except Parcel conveyed to the State of Montana by Bargain and Sale Deed recorded April 26, 1994 as Document #9411615250, records of Flathead County, Montana.

TUESDAY, JUNE 23, 2009  
(Continued)

**DOCUMENT FOR SIGNATURE: HEALTH INSURANCE PLAN AMENDMENTS**

[10:08:36 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, HR Director Raeann Campbell, Clerk Kile

Campbell reviewed the amendments which included the voluntary deductible reduction program along with adjustments that were made in mammogram benefits, and services covered under the Health Department. It was stated the changes will be incorporated into one document.

Commissioner Brenneman made a **motion** to approve the Health Insurance Plan Amendments. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**CONSIDERATION OF HR TRANSMITTAL: REGISTERED NURSE-CLINIC MANAGER/ HEALTH DEPT.**

[10:09:49 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, HR Director Raeann Campbell, Clerk Kile

Campbell explained the job description was previously approved; the transmittal is for a revision of job qualifications.

Commissioner Dupont made a **motion** to approve the HR Transmittal Form. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**DOCUMENTS FOR SIGNATURE: DPHHS CONTRACTS #10-07-3-01-0050 AND #10-07-5-11-008-0**

[10:11:22 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Clerk Kile

Pence reported the contracts include the breast/cervical cancer program annual grant for \$122,300.00 and a family planning grant for \$270,351.00.

Commissioner Brenneman made a **motion** to approve the DPHHS contracts and authorized the chairman to sign. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**MEETING W/ GEORGE SMITH, PLANNING & ZONING OFFICE**

[10:30:26 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, Assistant Planning & Zoning Director B J Grieve, Planner George Smith, Clerk Kile

Smith briefed the commission on the process the Whitefish Lakeshore Protection Committee went through in rewriting the lakeshore regulations. He noted most of the process prior to his involvement last fall was done above board but a certain group did put forth a concentrated effort to derail rewriting the regulations. Smith explained the result of rewriting the regulations was basically organizing the document for ease of use. Other items discussed were definitions and violations.

TUESDAY, JUNE 23, 2009  
(Continued)

**MEETING W/ WYNN ZELLMER RE: HEALTH INSURANCE SCREENING**

10:57:25 AM

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Assistant Deputy County Attorney Tara Fugina, HR Director Raeann Campbell, HR Assistant Tammi Skramovsky, Public Works Director Dave Prunty, Wynne Zellmer, Shirley M. Zellmer, Clerk Kile

Wynne Zellmer explained to the commission when information was presented to him in regards to the health risk assessment and blood draw he was told it had to be done over the internet. He then stated he was told by Raeann there was no other option that it had to be done over the internet. He then said he contacted the insurance company and spoke to the insurance attorney who informed him there was an alternative way to do the health risk assessment. He was then put in touch with Stephanie who gave him the number to call in order to take the health risk assessment over the phone. Zellmer went on to state on the first memo he received it said the results had to be in front of you in order to take the health risk assessment. He said that Raeann has since informed him that his office was e-mailed a notice that said it wasn't necessary to have results in front of you in order to take the health risk assessment. He explained that he asked several fellow employees if they had seen the memo or e-mail and they hadn't seen it either. He stated when they are informed of safety meetings they each get individual memo's in their mail boxes and felt this was just as important. He then explained that he and his wife had their blood drawn on June 5; with appointments made by alphabetical order based upon last names. The Health Department told him his results would have been out on June 8 and no later than June 9. They were not received in his mail box until June 15, the day of the deadline, and since he couldn't do this on county time or over a county computer he waited until the next day and when his wife called in she was told the deadline was up. She was told if the H.R. Department would extend the deadline they would do the health risk assessment for her. He stated he called Raeann and she told him it couldn't be done. Zellmer questioned why inter-office mail took so long to get to him and also questioned why the results were not mailed directly to their home, which would have been quicker than inter-office mail. He then asked for an extension.

Shirley Zellmer said their blood results left the Flathead County Health Department on Monday and Tuesday at the latest; that is seven days for inter-office mail to get from one end of town to another.

Wynne Zellmer went on to say the Operations Manager had problems with the on-line survey in that it was difficult to use.

Campbell presented the commission with an outline of the sequence of events and explained that she met with Solid Waste on February 10 and February 13 with the crew. She stated they did want the people to have their blood test results in front of them when they took the assessment, because it does ask you about your LDL and HDL in order to get the most accurate information. On March 17 an e-mail message was sent out to all employees in regards to buying back your deductible and all departments were asked to post it, knowing that not all employees have e-mail. Campbell went on to say that she checked with the Road & Bridge Department and Solid Waste to make sure it had gotten out. On April 24 another e-mail message was sent out on how to access the HRA. She noted that both she and Tammi had conversations with Wynne in late April and this is the first that she has heard that he has spoken to any kind of attorney at Allegiance. They were told there were no other options other than to do the assessment over the internet. Stephanie Randall her contact e-mailed her back on April 30 and gave her a toll-free number. Campbell stated that Allegiance does record their phone calls and Stephanie listened to her phone call with Mr. Zellmer where she told him it was recommended, but not required to have the blood test results to take the assessment. On May 22 another e-mail message was sent out reminding all employees about the blood draw and health risk assessment that needed to be in, but that it wasn't necessary to have your blood tests in order to take the assessment. On June 11 another e-mail was sent out as a reminder. On June 17 Campbell stated she was contacted by Wynne Zellmer at which time he informed her that he did not have his blood test results until Monday. She was informed by Jim Chilton who picks up the inter-office mail that he picked up the mail the week of June 8, but he couldn't tell her for sure what day the blood test results were received.

Wynne Zellmer said if it was put in his box that Friday that he doesn't work on Fridays and something different should have been done. When he came in on Monday it was there but he wasn't allowed like a lot of others to do the health risk assessment on county time.

Campbell commented that neither the Health Risk Assessment nor blood draw was to be done on county time but on employee time. She stated that was the direction given to department managers.

General discussion continued in regards to when the Health Risk Assessment was to be taken along with the blood draw, the time it took to get inter-office mail out to Solid Waste and the memos/ e-mails that were sent out.

Campbell stated that she empathized with the situation, but if they make an exception for one individual they would have to open it and make exceptions for everyone else that didn't have the opportunity to get it done.

General discussion continued in which Commissioner Lauman stated the matter would be taken under advisement.

TUESDAY, JUNE 23, 2009  
(Continued)

**MEETING W/ B. J. GRIEVE/ PLANNING & ZONING OFFICE RE: PLANNING BOARD BYLAW AMENDMENTS**

11:20:03 AM

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Deputy County Attorney Peter Steele, Assistant Deputy County Attorney Tara Fugina, Assistant Planning & Zoning Director B J Grieve, Clerk Kile

Grieve explained Planning Board Sub-Committees have had desires to use data in their planning activities from a variety of sources. He stated sometimes these sources come from state agencies, local agencies or private individuals and when they are from private individuals the private individuals have expressed reluctance to hand over data; until they know how the data will be used. He further stated the Planning Board felt it would be appropriate to add to their bylaws something about how to accept data; where it should be from, how they can ensure its creditable/reliable/ etc. Furthermore he said they felt that the Planning Board should have the opportunity to create policies for themselves for instances like this in performing their responsibilities. It was therefore requested their bylaws be amended to add:

*Per 76-1-305(1) M.C.A., the Board may adopt policies to guide administration of the affairs of the Board. These policies shall be adopted and/or amended following the amendment process outlined herein. Adoption and amendment of Board administrative policies shall be recorded in a separate document and kept on file at the Flathead County Planning and Zoning Office. Administrative policies shall be available during normal business hours for public inspection.*

Grieve then explained the policies would not be adopted directly into the bylaws, but if they want to amend policies they would follow the same process as listed under amendments in the bylaws to a separate document available in the Planning Office of Planning Board Policies. It was then pointed out that this is an amendment to the bylaws to state essentially: We can adopt policies. It would then be the adoption of the first policy which is: Guidelines for Data to be Included in the Flathead County Planning Board Maps & Documents.

Commissioner Brenneman suggested that language be added to state: Primary data sources shall be cited.

Commissioner Brenneman made a **motion** to approve the Planning Board Bylaw Amendments as amended. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: AMENDMENT TO MILL CREEK PUD**

11:33:17 AM

Members present:

Chairman Dale W. Lauman  
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

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

Smith explained the public hearing is to amend the existing Mill Creek Estates Preliminary Planned Unit Development (PUD). The applicant never came in with a final plan and the property is now owned by the bank and before amendments can be made a public hearing has to be held.

Commissioner Dupont made a **motion** to authorize the publication of the Notice of Public Hearing and authorized the chairman to sign. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 3.31.020.4 of the Flathead County Zoning Regulations, that it will hold a public hearing to consider a request by Glacier Bank and Calaway Brothers, LLC, to approve an amendment to the existing Mill Creek Estates Planned Unit Development (PUD) preliminary plan in the Bigfork Zoning District.

The area is described as Lots 1-113, Mill Creek Estates in Section 26, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana. The property is located south of Montana Highway 209 and east of Montana Highway 35, Bigfork, Montana.

The proposal would amend the applicant's narrative and the conditions of the original PUD preliminary plan approval including those regarding the requirement for a clubhouse, the clubhouse lot and certain dust provisions.

The regulations defining the PUD requirements and the R-2 zoning classification are contained in the Flathead County Zoning Regulations on file for public inspection at the Office of the Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, at the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana, and on the Flathead County Planning and Zoning Office's website, at: [http://flathead.mt.gov/planning\\_zoning/downloads.php](http://flathead.mt.gov/planning_zoning/downloads.php). Documents detailing the PUD and the proposed amendments to the PUD are available for public inspection at the Office of the County Clerk and Recorder, 800 South Main, Kalispell, Montana, and at the Flathead County Zoning and Planning Office, 1035 1<sup>st</sup> Avenue West, Kalispell, Montana.

**TUESDAY, JUNE 23, 2009**  
(Continued)

The public hearing will be held on the **9<sup>th</sup> day of July, 2009, at 11:00 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed amendment to the Mill Creek Estates PUD in the Bigfork Zoning District.

DATED this 23<sup>rd</sup> day of June, 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Diana Kile, Deputy

Publish on June 27 and July 4, 2009.

**AUTHORIZATION TO PUBLISH CALL FOR BIDS: RSID #147 (MENNONITE CHURCH ROAD)**

[11:33:17 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

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

Commissioner Dupont made a **motion** to authorize the publication to call for bids for RSID #147 and authorized the chairman to sign. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

**CALL FOR BIDS**

Notice is hereby given that the Board of County Commissioners of Flathead County, Montana, will receive bids for the paving of RSID 147 – Mennonite Church Road in Creston, Montana.

The project generally consists of paving approximately 255,000 square feet with 4-inch thick asphalt, crushed gravel base, and gravel sub-base and improving existing drainage swales on the shoulder of the road. The contract documents, consisting of half size drawings and the project manual, may be examined or obtained at the office of Morrison-Maierle, Inc., 125 Schoolhouse Loop, Kalispell, MT 59901. The required deposit of \$125.00 per set is non-refundable. Payment of an additional \$50.00 is required for express mail. Full size drawings may be purchased for an additional \$150.00.

In addition, the drawings and project manual may also be examined at the following locations:

Northwest Plans Exchange	2303 Hwy. 2 East, Kalispell, MT 59901
Helena Plans Exchange (MCA)	1717 11 <sup>th</sup> Ave, Helena, MT 59604
Morrison-Maierle, Inc. – Missoula	3011 Palmer Drive, Missoula, MT 59801
Missoula Builders Exchange	201 North Russell, Missoula, MT 59801

Each bidder should submit bids for and produce a schedule showing when the work can be started and completed. Warranties and schedules will be considered when determining the bid that is in the best interest of Flathead County and area residents and will be included in the contract for paving Mennonite Church Road.

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

No bidder may withdraw a bid after the actual date of the opening thereof.

A Performance Bond and Labor and Materials Payment Bond each in the amount of One Hundred percent (100%) of the contract sum will be required of the successful bidder, to secure the contractor's covenant to faithfully perform all of the conditions of the contract in accordance with the law and that contract. The successful bidder will also be required to provide proof of Workers' Compensation insurance and/or an independent contractor certification from the State dated after May 1, 2005, and General Liability and Automobile insurance policies, with Flathead County as an additional insured, each in the amount of at least \$1,000,000.00.

The successful bidder must contract to pay prevailing wage rates, set by the Montana Department of Labor, and will be subject to withholding of 1% of all payments for transmittal to the Department of Revenue to pay the public contract tax. The Contractor and all subcontractors will be required to have a certificate of registration from the Montana Department of Labor and Industry in the proper classification. The successful bidder must contract to give preference to the employment of bona fide residents of Montana in the performance of the work. A resident bidder will be allowed a preference against the bid of any nonresident bidder from any state or country that enforces a preference for resident bidders equal to the preference given in the other state or country.

All sealed bids, plainly marked "Paving Mennonite Church Road, RSID 147 Bid" must be in the hands of the County Clerk and Recorder, 800 South Main, Kalispell, Montana 59901, at or before 5:00 PM, on July 21, 2009. Bids will be opened and read at 11:00 AM, on July 23, 2009, in the Commissioners' Office at the Courthouse, West Annex, 800 South Main, Kalispell, Montana.

TUESDAY, JUNE 23, 2009  
(Continued)

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

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

Dated this 23<sup>rd</sup> day of June, 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:

Paula Robinson, Clerk

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

By/s/Diana Kile  
Diana Kile, Deputy

Publish: June 28 and July 5, 2009

**DOCUMENT FOR SIGNATURE: KF&G LEASE AGREEMENT/ V. POPE**

[11:34:34 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

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

Pence explained this is a month to month lease for \$500.00 a month.

Commissioner Dupont made a **motion** to approve the lease agreement with Pope. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

**12:00 p.m. Commissioner Brenneman: CDC Board meeting @ Three Rivers Bank**  
**4:00 p.m. Commissioner Dupont: RAC meeting @ Forest Service Office**  
**5:00 p.m. Commissioner Lauman: Refuse Board meeting @ Solid Waste District Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 24, 2009.

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**WEDNESDAY, JUNE 24, 2009**

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

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

**PUBLIC HEARING: ROBINSON SAND & GRAVEL ZONE CHANGE/ EVERGREEN & VICINITY ZONING DISTRICT**

[9:15:25 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Deputy County Attorney Jonathan Smith, Assistant Deputy County Attorney Tara Fugina, Planner Dianna Broadie,  
Brent Moore, Clerk Kile

Broadie reviewed Staff Report FZC 08-14; an application submitted by Kevin Robinson for Robinson Sand & Gravel, Inc. with technical assistance from Brent Moore for a zoning map amendment from R-1, Suburban Residential to B-2 General Business within the Evergreen Zoning District on Hwy 35.

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

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

Commissioner Dupont made a **motion** to adopt Resolution 797EZ and authorized the publication of the Notice of Passage of Resolution of Intent and authorized the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**TUESDAY, JUNE 23, 2009**  
**(Continued)**

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION  
EVERGREEN AND VICINITY 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 intention (Resolution No. 797 EZ) on June 24, 2009, to change the zoning designation in a portion of the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to B-2 (General Business).

The boundaries of the area proposed to be amended from R-1 to B-2 are the boundaries of Lots 10 and 11 of Bernard's Park Subdivision located in Section 3, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana and located on the north side of US Highway 35 just east of Bernards Road, containing approximately 1.3 acres.

The proposed change would change the general character of the zoning regulations applicable to the property from an area intended to provide 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., to an area intended to provide for those retail sales and service functions and businesses whose operations are typically characterized by outdoor display, storage and/or sale of merchandise, by major repair of motor vehicles, by outdoor commercial amusement and recreational activities and by businesses serving the general needs of the tourist and traveler.

The regulations defining the R-1 and B-2 Zones are on file for public inspection at the Office of the Clerk and Recorder, 800 South Main, Kalispell, Montana, at the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana and on the Flathead County Planning and Zoning Office's website, at: [http://flathead.mt.gov/planning\\_zoning/downloads.php](http://flathead.mt.gov/planning_zoning/downloads.php). Documents related to the proposed amendment are also on file for public inspection at the Office of the Clerk and Recorder and at the Flathead County Planning and Zoning Office.

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

DATED this 24<sup>th</sup> day of June, 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

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

By/s/Diana Kile  
Diana Kile, Deputy

Publish on June 29 and July 6, 2009.

RESOLUTION NO. 797 EZ

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 24<sup>th</sup> day of June, 2009, to consider a request by Kevin Robinson for Robinson Sand & Gravel, Inc., to change the zoning designation in a portion of the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to B-2 (General Business);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on June 6 and June 13, 2009;

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

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

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning for a portion of the area in the Evergreen and Vicinity Zoning District from R-1 to B-2, that area being described as the boundaries of Lots 10 and 11 of Bernard's Park Subdivision located in Section 3, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana and located on the north side of US Highway 35 just east of Bernards Road, containing approximately 1.3 acres.

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

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



**TUESDAY, JUNE 23, 2009**  
**(Continued)**

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

DATED this 24<sup>th</sup> day of June, 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

By/s/James R. Dupont  
James R. Dupont, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Diana Kile, Deputy

**MONTHLY MEETING W/ DAVE PRUNTY, SOLID WASTE DISTRICT**

9:30:07 AM

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Public Works Director Dave Prunty, Operations Manager Solid Waste Jim Chilton, Clerk Kile

Prunty reported the grand opening of the Flathead Electric Generating Facility at Solid Waste will be held on Friday, June 26. He then spoke about horizontal gas collector lines that are around the land fill which the co-op is looking to tie into. It was then reported the State Land Commission authorized the Ashley Lake container site easement and the next big item is to get a check to them for \$32,862.80, and after engineering design is completed they will go out to bid for the project. Discussion was also held relative to the Somers container site, safety issues in regards to scavenging that occurs at container sites and expenditures for the sites up the canyon area. Prunty then explained a cost break down for maintaining the three Canyon container sites that he stated is not cost effective for the district, with less than one percent of the total tonnage coming from the sites: revenue coming into the district from 302 properties is \$25,288.67, yearly cost to remove is \$31,693.00 and cost per ton to remove is \$104.00. Discussion was then held relative to the service that will be taken away from the residences in the area and concern expressed to the district about litter along the highways.

**BI-MONTHLY MEETING W/ KIM CROWLEY, LIBRARY**

10:06:29 AM

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Library Director Kim Crowley, Clerk Kile

Crowley reported the Library is staying extremely busy and stated their usage is 26% higher than last year with continued increases in all their services. She then explained \$14,000.000 in salaries and \$16,000.00 in benefits was cut from their FY09-10 budget by realigning staff and moving positions around. Also reported was the collections agency used for recovering materials has been paid \$2,250.00 and they have recovered over \$6,000.00. Crowley noted the Glacier Discovery Square in Columbia Falls is moving forward and a proposal will be forthcoming to get capital money for the facility. She also summarized the progress of the facilities committee and presented their report to the commission.

**CONSIDERATION OF LAKESHORE PERMIT: HINES**

10:18:37 AM

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Planner George Smith, Don Hines, Clerk Kile

Smith stated at the request of the applicant violation FLT 09-01 for construction of an impermissible dock on Flathead Lake without a permit is being presented for a second time. He noted construction was done on permit FLZ 08-02 which was left in an unresolved situation due to failure of communication between the parties.

Hines stated he was in error and that various things lead to the process being where it is at today. He then recommended that the process be stream lined to the point where the applicants, builders and public are being served properly. He then said he was asking to get some resolve and asked to be allowed to reduce the size of the present dock that has major structural problems and at that time reduce the amount of square footage of the structure in question; if he reduces the main dock and the dock in question he would end up with 930 square feet, which is not much over what the permissible allowed is at this point in time.

General discussion continued with the commission and the applicant in regards to reaching a compromise.

**TUESDAY, JUNE 23, 2009  
(Continued)**

Smith stated if Mr. Hines wanted to bring the dock into compliance in square footage he would have no objections to allowing it to remain in place until it is appropriate to get equipment on a hard frozen lake bottom. He further said the best solution may be replacement, and feels this might fall under where a total replacement would not necessarily require complete compliance in terms of set back, as long as it doesn't become further non-compliant and stays in its same foot print between the area of the dock, and the area of the new structure and the total square footage comes into compliance.

Commissioner Brenneman made a **motion** to delay consideration of the violation pending receipt of a permit which will bring the structure into greater compliance than currently exists by September 1, 2009.

Hines explained if we push it until September 15, 2009 the lake will drop 1 ½ feet and will allow him to better see under the dock.

General discussion continued in regards to a permit, variance and timeline.

Commissioner Brenneman amended his **motion** to delay consideration of the violation pending submission of a permit to address coming into compliance with the regulations with the structure to be completed by the end of this year. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**PERSONNEL MATTER**

[11:00:58 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Public Works Director Dave Prunty, Operations Mgr. Road and Bridge Dept. Guy Foy, Road Dept. Shop Foreman Corey Pilsch, Dan Doogan, Jay Sorenson, Sherman Baker, Russ Bahny

This meeting was closed to protect the privacy of the employee.

**12:00 p.m. Commissioner Brenneman: Housing Affordability Ladder meeting @ Insured Title**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 25, 2009.

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**THURSDAY, JUNE 25, 2009**

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

**7:00 a.m. Commissioner Dupont: Prerelease Center meeting @ Adult Probation Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 26, 2009.

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**FRIDAY, JUNE 26, 2009**

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

**9:00 a.m. Subdivision Review Committee meeting @ Commissioners' Meeting Room**  
**10:30 a.m. Commissioner Brenneman: Dedication of Flathead Electric Generating Facility @ Solid Waste District LFGE Facility**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 29, 2009.

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